



**LAPORTE COUNTY
BOARD OF ZONING APPEALS**

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MICHAEL POLAN
Building Commissioner

May 17th, 2022

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday,
May 17th, 2022, at 6:00 p.m. in the Assembly Room of the County Complex.

MEMBERS PRESENT: Melissa Mullins Mischke Dwayne Hogan
 Glen Minich Adam Koronka
 April Daly

PRESENT: Michael Polan, Recording Secretary, Attorney Doug Biege; Ashley
 Kazmucha, Secretary

The Pledge of Allegiance.

APPROVAL OF MINUTES:

Melissa Mullins Mischke asked for approval of the meeting minutes of April 19th, 2022.

Glen Minich made a motion to approve the meeting minutes of April 19th, 2022 as presented.

Dwayne Hogan seconded.

All Approved. Motion carries 5-0.

Dwayne Hogan made a motion to remove Petitions 1, 2, and 3 from the table.

Adam Koronka seconded.

All Approved. Motion carries 5-0.

Melissa Mullins Mischke stated before they get stated she wants to let everybody know that the only time that they will entertain public comment is during remonstrations. If they have something to say, they need to do it during the remonstrations period for that petition. Remonstrators will be limited to three (3) minutes this evening. Again, as she tells everyone, they want to hear something new in their remonstrance. If they have three (3) people that get up and say the same thing over and over then they will move on to the next one.

Petitions:

1. Petition for Variance of Special Exception for Tong's Property LLC (Yan Tong Guan) owner and Sunbreak Entertainment Corp. (Hang Chen, Yan Gao, & Zhong Chen) renter represented by counsel Andrew Voeltz of Howes & Howes LLP for an outdoor shooting range. This property is located across from 6961 S. 3rd Line Rd., Kingsbury, IN., Washington Twp. zoned M2 on 38.507 acres. Parcel 46-15-09-100-004.000-066.

Attorney Biege stated notice is adequate.

Andrew Voeltz stated he is an Attorney with Howes and Howes located at 717 Indiana Ave, LaPorte, IN. He stated they are there for a Petition of Variance for Special Exception pursuant to Article 24 and 24.05 as indicated for Tong's Property LLC and then Sunbreak Entertainment Corp. All of their representatives are present here in the second (2nd) row. It's interesting because this petition is new in and of itself, but at the same time it is old because they had presented something late last year that was dismissed pursuant to lack of jurisdiction because all of the property owners were not indicated in the petition. This Board has heard the initial petition #1, but #2 they have also now submitted additional evidence in the form of letters from a certified NRA Firearms Instructor indicating his sign off of the proposed plans, the outdoor range business plan, the range safety and design plan, and what was submitted as Exhibit A was in fact three (3) options that could potentially be considered with regards to placement of this outdoor shooting range. Again, for background, his clients are residents of the City of Chicago. There are no shooting ranges in Chicago. Shocking, right? Except unless they walk outdoors and walk down Clark or whatever else. That being said, they are going to market this to their clients in Chicago and locally here. It will bring a great amount of interest into LaPorte County which does have KOP and that shooting range out there which is in the same area, but because this property is zoned M2, even if it was zoned M1, they still need the Special Exception. They are asking for that and pursuant to the criteria under section 24.05 of the JZO, all eight (8) of those items have been met. Again, they have made some changes. They made changes to the berm height; they have received letter of support from certified rangemasters with the NRA; and three (3) of his clients are certified NRA Instructors. This would satisfy a need that would bring taxpayers money to LaPorte County. He understands that there are some remonstrators present. He understands that those remonstrators may have been remonstrating against the previous petition where these three (3) options weren't outlined. They are asking for a Special Exception Variance to allow the installation of an outdoor shooting range on that property across the street from 6961 S. 3rd Line Rd. in Kingsbury. It is on thirty-eight and a half (38.5) acres. It is not being used at this point. The surrounding areas from his understanding is there may be at least one (1) individual present that will be in support of this. He knows there is a remonstrator present in the form of an attorney and he does appreciate his and their position with regards to safety, but the plans that have been put together here that they have spent an enormous amount of time on, show that this meets and exceeds in fact NRA requirements. He knows there is a certified rifle person formerly of the Marine Corps so he can speak to that, but they are talking about raising the height of the berms, changing location of the shooting ranges, and not interfering with wetlands out there. This is the highest best use of this property and they would ask that this petition be granted.

Remonstrators:

David Ambers, Attorney at Law, stated his address is 601 State Street, LaPorte, IN. He is there on behalf of LaPorte Lake Development Incorporated. They own over a hundred (100) acres north of this site and contiguous to this site. His client is very concerned because that property is being marketed both by him and Tony Rodriguez with the County for commercial development. There has been some substantial interest in the property, they just haven't gotten the deal yet. It is highly unlikely that anyone will want to come out there and build a factory next to a shooting range especially if they go by their plan, they will have eight-foot (8') high side berms. That's too dangerous; factories are more than eight feet (8') tall. If somebody shoots over one of those side berms it will go into a factory and possibly hit a worker. Mr. Voeltz mentioned the marketing to Illinois. They have farm ground in Illinois. They can put this in Illinois closer to Chicago than driving out here. As they stated in their materials, Illinois has to have a training program to obtain a concealed carry license and they want to drag them all out here. They ought to find something over in Illinois if they are going to be training Illinois classes. They note that they will be marketing within two (2) hours of the location both in Michigan, Illinois, and Indiana. On the range construction, the side berms are eight feet (8'). That's a worse design than what they shut down in Wanatah; he had much higher berms and higher berms behind the targets and they still shut him down. Now, this is a lesser plan with less safety and closer to businesses with Sims Meats right across the street, Hiler Industries down the road, and a chemical company nearby. This isn't the place to put this thing. KIP might be the right place, but not this parcel of ground in KIP. What he has given the Board, is the petition and the remonstrance of this petition and they have failed to address all of the criteria of Article 24.05 of the County JZO. The granting of this Special Exception will be injurious to the health, safety, and general welfare of the community. They have not discussed how they are going to address lead or noise concerns. If they remember the noise was particularly one (1) of the biggest problems on the one (1) shut down in Wanatah. They have not discussed how the project will not be injurious to the public health, safety, and welfare. It will be injurious to the use and enjoyment of property in the immediate vicinity for the purpose already permitted because of the noise, lead, and the possibility of stray bullets going over low berms. That road is in terrible shape out there and it is a private road. It does not qualify for the orderly development of everything the Commissioners are trying to do in that KIP area with the train tracks they have added and their marketing for the intermodal site. This just isn't the right place to plop down a shooting range. It is generally contrary to the purposes of the Ordinance and will permanently injure other property or uses in the district. There are two (2) attachments to his remonstrance; one (1) is from the National Association of Realtors that says if you have property near a shooting range that the property value will decline three-point-seven percent (3.7%). Most of the commercial properties out there are being marketed for twenty thousand dollar (\$20,000) an acre and three-point-seven percent (3.7%) of that is a pretty big decrease and he would argue, particularly for his clients' property right next to it, that the decrease would be higher. He has also included a document from the EPA about Best Management Practices for Lead at Shooting Ranges. That is a health concern that hasn't even been addressed. On behalf of his client, they ask that they would again deny this range as they did last year and protect the property owners that are already out there.

Earl Miller stated he is with Hiler Industries at 118 Koomler Drive in LaPorte. They also have a facility with Kingsbury Casting on 3rd Line Road. He spoke last November during remonstrance. He wasn't for or against as they didn't know much about the project so they were asking a lot of questions because they had a lot of concerns. Some of those were addressed with the Petitioners. He wanted to mention that since then, the gentlemen have approached them and they have had a number of conversations which were pleasant. They believe that they have good faith effort in toward what they are trying to do. They have shown them the new plans and changed the orientation of the berms that should be protective of Dankert's property which is directly north of there. He had mentioned wetland issues and they had looked up wetland rules and it appears to be within what would be protective of the wetlands out there. They have added to the height, width, and length of the lanes. One (1) thing they are in favor of is because there is a potential collaboration between the two (2) parties that came up is that they will need embankments and them being a foundry have a byproduct of foundry sand. They spent a lot of time working with IDEM and getting classifications and approvals for exactly these types of reuse projects. This would be a good one (1) and a really good use of their sand. He can't endorse the designs that they have, but it looks to be in a better condition and as long as they put vegetation on there it seems like it should deaden some of the sound. It is a loud area; they are a foundry. Property owners next to a foundry probably don't have as high of a property value either.

Melissa Mullins Mischke stated she would think not.

Earl Miller stated the only other thing he had spoken about previously was the road maintenance and 3rd Line Road is a private road. He has spoken to them and they mentioned that they would participate in the repaving of that. Them and some other property owners put money into that. Some folks don't; no names mentioned. It appears that they have good faith effort in what they have spoken with them about. He hopes that something can be worked out. Thank you for your time.

Andrew Voeltz stated he would like to address the issues raised by the attorney for the remonstrator. Once again, there are eight (8) factors that are required to be met in order for this Board to make the decision and the issue again is that the property is zoned M2. They are not talking about a residential area; they are talking about industrial. The previous individual that came up and spoke in regards to a foundry, they are not talking about quiet at any point in time. They run twenty-four-seven (24/7). With that being said, his clients' operation will not be that. It's not like it will be World War III out there. It is limited in scope. It is not as big as the shooting range that's at KOP. It is smaller and unique. They are talking about a tactical pistol course, a rifle range, and law enforcement. They are also talking about courses that will be offered that don't even involve a handgun or a firearm. That is what they are trying to do here. What a self-defense strategy or mechanism is. You don't need a gun to defend yourself. There are other ways to defend yourself and as is indicated in the packet, you don't necessarily even need to put yourself in a dangerous situation and that's what the Refuse to Be a Victim class is. It is not injurious to the public health. They are not talking about a situation where they are in residential; this is zoned M2 and almost the highest level of use. The surrounding property will not be injured. There is no hazard. They have agreed as indicated by the previous gentleman to assist with recovery and repair of the private road. They are willing to invest money in this community and that money will then reap further investments. Whether Mr. Ambers wants to say

that this is being marketed two (2) hours away or whatever else, at the end of the day a dollar from Michigan and a dollar from Illinois is the same as a dollar from Indiana. If they have people coming from Michigan and Illinois to use this facility, the money is the same. It's coming into the County and they're not just coming here for a shooting range. They will stop at restaurants, they're going to shop, they will buy gas at five bucks (\$5) a gallon, they are going to do this and that. This is a fantastic use of this property. There have been multiple options presented. His client has indicated that the side berms as indicated as eight-foot (8'), he would be willing to raise those to twenty feet (20'). That would be twenty feet (20') all around. It's basically like shooting indoors at that point. He is a firearms guy. He has done indoor range, outdoor range, and the whole nine (9) yards. When you are in an area where the concentration is focused on the target, you are not shooting over here or over there, you are shooting down range all the time. He thinks that argument is specious, but he would be willing to entertain questions from the Board at this point.

Melissa Mullins Mischke asked why not build this in Illinois where they live? Why bring it out to LaPorte County where they have no vested interest other than they think this is the perfect property.

Andrew Voeltz stated the issue is that shooting ranges don't exist in Illinois because of the restrictive gun laws that are there and they see how well that works in Chicago. The reality is that the hoops that they have to jump through in Illinois in order to construct something like this are simply insurmountable. They just are. This range would also be within a two (2) hour drive of multiple metropolitan areas then they will draw people to LaPorte again. They might say that this shooting range is great, but let's check this one (1) out and say let's go to 3rd Base, let's go to Bistro on The Greens or whatever. They are coming here and they are going to spend money. To answer the question, they can't do this in Illinois which is why they are trying to come here.

Melissa Mullins Mischke stated there are shooting ranges in Illinois.

Andrew Voeltz stated there are two (2) that he is aware of in the Chicago area and they have been grandfathered in.

Melissa Mullins Mischke stated he is thinking specifically of the Chicago area.

Andrew Voeltz stated yes, which is where they are coming from. Granted down state or in rural areas, it may be different, but his clients are coming from Chicago and they have people there that have concealed carry permits through the State of Illinois. They want to practice and there's nowhere to do it. The waiting list for those shooting ranges in Chicago is months. If they need to practice and become familiar with their firearm, they can't wait two (2) months to get on a range where they can put thirty-five (35) rounds down range and hit center target or whatever else.

Adam Koronka stated there has been a lot of talk about EPA and lead abatement. The plan shows a lot of talk about sand bullet traps. Is there any lining? What does the construction of those actually look like?

Andrew Voeltz stated his understanding is that there is going to be a concrete or steel backdrop that is then going to be buttressed with sand which is the standard construction of any shooting range that he has been at from Arizona to Alaska to here or whatever else. Then vegetation is planted which will absorb noise and then that is then turned around and recycled where it gets run through a trap, the lead is pulled out, and then it gets sent back to a recycler or mediator. It is not going to sit in the ground or leech into the ground water. They will do this on a recyclable basis.

Adam Koronka stated they are talking about a composite berm where there is a combination of sand as the immediate stop, concrete, and then an earth berm around it.

Andrew Voeltz stated that is correct.

Glen Minich stated there is already a shooting range right there within three (3) or four (4) miles. It's loud, but it's driving the noise and it's closer to the game preserve so it is more isolated, but he doesn't think they shoot rifles there.

Adam Koronka stated they do.

Glen Minich stated what is the range on a rifle. The lethal range on a bullet out of a rifle?

Andrew Voeltz stated that is up to the laws of physics. In theory, if he shot a rifle straight up in the air at forty-five degrees (45°) angle it could carry potentially forty-five-hundred yards (4,500 yds). Mr. Biege may be able to comment on that. The issue with the comparison with the shooting range that exists right now is there are ten (10) times the lanes there. When you go out there, as he has been, it sounds like World War III. Mr. Minich is correct about that. There are guys out there with semi-auto weapons, muzzle loaders, fifty (.50) caliber BMG stuff, etc. This is a different situation. They only have three (3) lanes, that's it. It will be a rifle range, a pistol range, and a tactical range. That's it. They're not talking about what KOP is where they have seventeen (17) lanes that can be operating all at the same time up to the rangemasters discretion.

Glen Minich stated he is concerned about the lethal range of those automatic rifles and the long-range rifles. In a training situation, it concerns him when he looks at a map and he sees the direction they are shooting and the Town of Kingsford Heights and the trailer park out there. It is a concern.

Andrew Voeltz stated he understands.

Dwayne Hogan asked if the range will be membership based or will it be open to anybody.

Andrew Voeltz stated it will be membership based at this point. It will be a very, very exclusive clientele and they are not talking about people that are coming in off the street like you can do in KOP and pay five bucks (\$5) and get on the range. And they will be vetted. Everybody has to be vetted because individuals in Illinois cannot carry a firearm unless they have a license and the process to get that license is very arduous. The difference between there and Indiana now, is that Indiana is now a Constitutional carry state. They won't have to go through that process like he

did with his concealed carry permit. At the same time though, this is not marketed exclusively to Illinois or Michigan or whatever. It is marketed to everybody, but it will be a very exclusive clientele which will be very different from what the range at KOP is where anybody and their Mom can go out there with five (5) AR's and shoot off a thousand (1,000) rounds in twenty (20) minutes and make it sound like Red Dawn Part 2.

Attorney Biege stated in deference to Andrew, he is combat rifle and pistol certified, but he doesn't want to present evidence to the Board. He is not sure that is appropriate as the Board Attorney. That is why he is being quiet.

Melissa Mullins Mischke stated noted.

Dwayne Hogan stated duly.

Adam Koronka made a motion to approve the Petition for Variance of Special Exception for Tong's Property LLC (Yan Tong Guan) owner and Sunbreak Entertainment Corp. (Hang Chen, Yan Gao, & Zhong Chen) renter represented by counsel Andrew Voeltz of Howes & Howes LLP for an outdoor shooting range contingent to options of Exhibit B and/or C This property is located across from 6961 S. 3rd Line Rd., Kingsbury, IN., Washington Twp. zoned M2 on 38.507 acres.

Motion dies due to lack of a second.

Glen Minich made a motion to deny the Petition for Variance of Special Exception for Tong's Property LLC (Yan Tong Guan) owner and Sunbreak Entertainment Corp. (Hang Chen, Yan Gao, & Zhong Chen) renter represented by counsel Andrew Voeltz of Howes & Howes LLP for an outdoor shooting range. This property is located across from 6961 S. 3rd Line Rd., Kingsbury, IN., Washington Twp. zoned M2 on 38.507 acres.

April Daly seconded.

Approved. Motion carries 3-2.

2. Petition for Variance of Use for Edward W. and Debra S. Arnold represented by counsel Andrew Voeltz of Howes & Howes, LLP for construction of a 68 – 70 unit assisted living facility with potentially 6 – 8 detached senior villas, which would be allowed if the property was zoned B1 or O1. The property is located at 4155 N. State Rd. 39, LaPorte, IN., Center Twp., zoned B3 on 4.01 acres. Parcel 46-06-11-300-016.000-042.

Attorney Biege stated notice was adequate.

Andrew Voeltz stated he is an attorney with Howes and Howes located at 717 Indiana Ave, LaPorte, IN. This is again kind of a goofy situation because this petition was originally filed a couple years ago so now this is a "new" one. They are talking about the Petition for Bella Largo to allow for construction for 68 – 70, which is actually sixty-three (63) residential apartments

which would be permitted if the property is zoned B1 or O1, but it is in fact B3. Again, pursuant to Article 28.11 there are five (5) elements that need to be met and obviously they are well aware of what that is. The approval would not be injurious to the public health, safety, morals, or general welfare of the community; the use and the value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; the need for a variance arises from some condition peculiar to the property involved; the strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and it does not interfere substantially with the Comprehensive Land Development Plan. What this is here is an assisted living facility that is going to provide beds for what is coming as the "grey wave". The reality is that in this Country and around the world, they have a situation where there is the Baby Boomer generation that is now going to be coming into a situation where they need help to living. They need assisted living. These facilities are in dire need across this Country let alone in this County. With regards to the project scope, it is a fourteen-million-dollar (\$14,000,000) project which would allow for approximately a hundred (100) construction jobs and fifty (50) full-time healthcare jobs starting at eighteen dollars (\$18) an hour. The design releases and maps have been provided to them as well as a letter of support from 39 North Conservancy District, a letter of support from the insurance agent, and a drawing that shows what he believes will be remonstrated against with regards to their "fire-suppression plan". He has a number of individuals here ready to communicate what they know about this project and whatever else, but he wants to give the framework. He understands this is a political issue. He gets it. They are talking about how they want a water tower. Whether it's the City of LaPorte or 39 North or whatever, they want a water tower. The fact of the matter is, this property and this project already has a water tower in the form of a million (1,000,000) gallon lake. This is the same type of fire suppression that exists a mile away at Lindy Praxair and four (4) miles away at La Lumiere. The exact same thing. So, if the Center Township Trustee or any individual from the City Water Department or somebody else is going to get up and say the fire suppression system is inadequate, they are wrong. The Board has the documents in front of them. It has been signed off by the State Fire Marshall and by the Indiana Department of Homeland Security. That is the highest level they can go; they can't go any higher. This is an auxiliary system that is designed to not tax the water line that is out there. If there is an issue with this property or anything that goes on with fire suppression, they have the ability to handle it in house, number one (1). Number two (2), then they also have the ability to allow for any volunteer fire department to come in and pump from there so they don't have an issue with water, flow, or this. They have Commissioner approval on this as he believes they are all aware. Any and every contractor or subcontractor will be bonded by the County. That is not a concern. The reality is that this is the highest, best use of this property that would again infuse fourteen-million-dollars (\$14,000,000) into this County. They are not getting a tax abatement like the stuff that is going on in the City. They are paying money and they are ready to pay money. They are ready to get this project moving. They need to get it moving as soon as possible. They are well into "construction season" at this point. They would ask that this petition for a Use Variance be granted based upon the fact that all of the items indicated in 28.11 of the JZO have been met. Mr. English, the project developer, can suss this out a little further.

John English stated his address is 4144 N. SR 39, LaPorte, IN. He is the developer of this project. He will try not to reiterate things already stated by Andrew, but some of them will cross over, but he will be as brief as possible. Currently, fifteen percent (15%) of this Country's

population is sixty-five (65) and older. He is one (1) of them. It is estimated that by 2050, that percentage will grow to twenty percent (20%). That is seventy million (70,000,000) of them. They had two (2) market studies performed for this marketplace and the conclusions of both studies showed that a current and future need for a project of this size. They need to be prepared for what is coming. They are doing that. Their building is a one-story forty-seven-thousand square foot (47,000²) facility designed and built with thirty-three (33) units of assisted living and thirty (30) units of memory care along with many senior living features such as private dining, hair salon, exercise room, etc. Bella Largo will be the first senior housing facility in the market area to be designed and built as a virus-resistant facility. In addition, they will have the only private virus-free visiting area. There won't be any of the looking out the windows and waving to their loved ones. Let's hope that we never get back to those days, but they are preparing for it. The project is a total cost of about fourteen-million-dollars (\$14,000,000); eleven-million-dollars (\$11,000,000) of that is for construction labor and materials. Most of that will be going to local Indiana subcontractors and suppliers. As Attorney Voeltz told them, all their contractors will be bonded with the County. Through census build up, Bella Largo will be adding new long-term high-paying professional jobs to the local economy. Once stabilization is reached, Bella Largo will have created fifty (50) of these new high-paying jobs. During construction, there will be a hundred (100) labor jobs. Once stabilizes, Bella Largo will be a major tax revenue source for the County. It is safe to assume that the tax revenue would approximately be twenty (20) times the property taxes that are being currently collected from the single-family home that is on the property. This project is a win for all concerned. In 2020, LaPorte County commissioned an Indiana housing firm to help the County unearth reasons for housing development stagnation. Two (2) of the key findings in the report were that there was a need for a wide spectrum of housing; that included senior housing. The second (2nd) key finding was that commercial centers with dense housing should be supported. Bella Largo meets both of those key findings. Bella Largo fills both a current and need in so many ways. It will be an asset to the community, the township, and the County. In this room and on Zoom, there a few experts in their field that will address the fire protection issues that Andrew related to. Their architects and engineers who all have much experience in the senior housing market place and through this they worked with the highest levels of the State fire protection people and through their normal senior housing industry process, they have received design approval from the Department of Homeland Security, Division of Fire and Building Safety, and the State Department of Health Engineering Department. Those approvals letters were handed out earlier. They have Gary Radke, their civil engineer, that will speak about the overall fire protection plans which he has helped design. When Gary is completed, they would like to bring up Mike Williams as the person who helped design the auxiliary fire protection system and he will be the party that will be installing it. Lastly, after Mike is completed, they would like comments from Mark Riffey, who is on Zoom right now. Mark is the Vice-President at F.E. Moran and he will be their fire suppression contractor. Mark is not only a sprinkler contracting expert, but he previously worked in the State Fire Marshall's office.

Gary Radke stated his office is at 5821 N. US 35, LaPorte, IN. He is a professional engineer of the last fifty (50) years and designed many water systems in Indiana and through the United States. He operated Radke Engineering and Surveying for the past seventeen (17) years in their location on US 35. He is the engineer for 39 North Conservancy District and the downtown company that will be developing for the facility. He previously worked with McMahon

Associates out of Valparaiso, IN. He designed the original sewer and water system for 39 North Conservancy District and nine (9) other projects since that time. That was over twenty (20) years ago. The 39 North project was designed with cooperation with the City of LaPorte and they approved the system that they designed. There were many modifications that they wanted which they did to obtain the approval. Once approved, they submitted it to the State of Indiana and they also approved the plans. There has been a statement saying that this was a poor design. They have never heard why people keep saying it is a poor design, but they received approval by the City who was the company that actually supplies the water for this system. They also provide maintenance of this system. For this facility, which they received the plans on, there are two (2) water systems that will be constructed. The first system is the public system which is owned and operated by 39 North Conservancy District. In front of the building is an eight-inch (8") diameter water main and it is looped on both sides to a twelve-inch (12") pipe on US 39. This system provided drinking water and water for the sprinkler system plus the two (2) hydrants shown on the plans. Again, the City of LaPorte approved that system. The private system is something that was added since the original variance approval that was granted over a year ago. The private system has an inlet into the pond. The pond was constructed totally in clay; there is no sand bottom in the pond whatsoever. The opening in the intake pipe is two feet (2') from the bottom of the pond. The pumping system is going to be installed into the existing building. The pump will suck the water from the pond which has a million (1,000,000) gallons of water available. The million (1,000,000) gallons of water calculation is taken from two feet (2') above the bottom and three feet (3') from the top because of the winter ice expected. The difference is a million (1,000,000) gallons of water. It will be sucked in by the pump system and it will be then pushed out in pressure to two (2) hydrants in front of the building complex. What is interesting is the owner will also be notifying the fire departments that they can use this system to fill their tankers and fire trucks so it will be more of a public system for other fire departments. Using a pond for fire protection is absolutely not something new. It has been used in Indiana throughout the whole State and many other States actually. Most of the time, the fire departments do not have a connection point or hydrants to hook on to a fire pond system. All they do is put a pipe into the water and pump it in right to their tanks or their fire truck. His son is an employee of a fire department in a different county in Indiana for the last twenty-eight (28) years and he told him that they use ponds throughout the whole area to fight fires outside the city where he works. It is usual to have a stand pipe to connect to and he has never hooked on to a hydrant like they are planning to. At this point, he would like to introduce Mr. Mike Williams. Mr. Williams is from Peerless Midwest. Together, they designed this private system and he will explain it in more detail. He has a lot of experience in doing this. Thank you very much for your attention.

Mike Williams stated he is Chief Executive Officer of Peerless Midwest Inc. at 55860 Russell Industrial Parkway, Mishawaka, IN. He has been in the business of design and construction for fire protection and water supplies since 1986. His Dad founded the business in 1972 and did the work before then; he then retired in 1988. He is no longer active in project management as his son is now. He is doing what he is doing and he is here tonight on behalf of Mr. English and his group. What they do at Peerless Midwest is match up projects for industry commercial development et cetera that desire to have water supply systems for fire suppression other than municipal systems. These, many times, are located way out in the country. There is a variety of ways they can do it. There is National Fire Protection Association (NFPA) code that they utilize. There are various methods within the code such as wells, open ponds, and various storage tanks.

There is a number of possibilities. For this project, they are intending to use a large one million (1,000,000) gallon capacity open reservoir that the owner has. They will install an intake structure that will take the water into a sump and then use a line shaft turbine vertical UL listed electric motor driven fire pump to deliver water under pressure, a wet system, to the underground water main proposed for the property. There will be two (2) LaPorte standard hydrants that would be available for use not only for Bella Largo, but also for the community if the fire department was out there and needed a supply, they could hook up to it, open it up, hook up their stuff, and off they go. It is a fully automatic system with UL listed automatic fire pump controls. That is what they do and who they are. It would appear to be a benefit to the community to have something like this. The owner is proposing to go above and beyond what would be considered the minimum requirement for fire suppression. Next, Mark Riffey from F.E. Moran will speak, he should be on Zoom here.

Glen Minich stated he knows designs for factories that use this kind of system. How many assisted living facilities has he designed this kind of system for?

Mike Williams stated he would say dozens throughout his career. Miller's Merry Manor comes to memory. He has done a lot of jobs in his career and they all kind of run together. He has been doing this a long time. He did one (1) about two (2) years ago in Springfield Township. It was an old elementary school that got converted for use. It was just outside of Michigan City. Anyway, it is commonly done, yes.

Glen Minich stated they are still depending on the water supply that is coming from the City by way of the County extension to run the sprinklers that are going to protect the people inside each unit.

Mike Williams stated that question would be best directed to the next speaker. His knowledge of the project is this: the system they are being asked to construct would be fully capable of servicing the fire suppression system inside the nursing home. The individual heads and the system inside the building could safely be handled by what they are proposing to do. At the same time however, he understands there is the possibility of utilizing a city water main for the same purpose so it could be done either way. Mark Riffey would be the correct person to talk to about that.

Melissa Mullins Mischke stated her understanding is that they are either going to do the public system or the private system.

Mike Williams stated they have been asked to construct a private system. That is what his business does. It is a private system one-hundred percent (100%).

John English stated he has Mark Riffey on the phone because he can't get through on Zoom.

Melissa Mullins Mischke asked if it is either public or private? One (1) or the other?

John English stated there is a public system on the site and there will be a private system as well.

Melissa Mullins Mischke stated it will have both.

John English stated yes.

Melissa Mullins Mischke stated if there was an instance where there was a drought, would the public system would be able take care of the needs? Who is responsible for the maintenance of hydrants?

John English stated if it is a private system, it is their responsibility. They have a power generator and they will have to do the same thing with that. There is maintenance with these buildings all the time.

Mark Riffey stated he works for the F.E. Moran as the Chief Business Development Officer. Their address is 8771 Boehning Lane, Indianapolis, IN. He offers his information as an experienced person in the field of fire protection as mentioned earlier. He spent ten (10) years with the State Fire Marshall and left there as their Chief Deputy State Fire Marshall in the late 80's early 90's. He then went to work for the National Fire Sprinkler Association to promote the widespread adoption of regulations for installation of fire sprinkler systems. They spent ten (10) years with regards to sprinklers in multi-family residential type facilities. He also rode the back step at the Wayne Township Fire Department on the west side of Indianapolis for ten (10) years. He has twenty-two (22) years of experience as a sprinkler contractor. He had certifications as a fire protection lay-up technician with a program sponsored by the Society of Professional Engineers. He was listening to some of their questions. As for maintaining the system, the State has adopted a NFPA standard called NFPA 25 that does require routine inspection, testing, and maintenance to ensure the systems are operational. Mr. English called him earlier last week with regards for the need for fire protection in this building and having experience with the regulations and being apart of the Fire Prevention and Building Safety Commission for the State of Indiana in the 2000's he can assure that the fire protection system proposed for this building is more than adequate for the minimum State regulations as they explained earlier. One (1) of the questions was regarding the fire sprinkler system and the needed water supply; he wanted to add that they type of fire sprinkler system designed for this building will use what they call quick response sprinkler technology. The sprinklers will operate so fast that they will be designed to protect the occupants and save their lives in the even of a fire even in the room of fire origin. They anticipate in the residential areas, while they will put sprinklers in every room because they do not know where a fire may break out, they put the fire sprinkler system design for having the ability to flow water to four (4) sprinklers in the event of a fire. In actuality, probably one (1) to two (2) sprinklers will activate to control the fire, but the NFPA standards for this fire sprinkler system design for this type of structure would require them to design for four (4) sprinklers. With regards to some of the other areas in the building such as the kitchen area or the kitchen service area or mechanical rooms, they would design for a higher hazard than they would for the residential occupancies, but there again the number of sprinklers would probably be at the most seven (7) to eight (8) sprinklers might operate, each one (1) flowing about twenty (20) to twenty-five (25) gallons per minute. He appreciates their concerns about the need for fire flow, but for a facility such as this with build in fire protection, there is still a concern with regards to having a fire flow for the structure. With the water supply that services this area and that million (1,000,000) gallon pond, the water supply is more than adequate for a structure such as this. He

is happy to answer any questions they might have. He wanted to be brief and not repetitive. Thank you very much for the opportunity to speak this evening.

Glen Minich stated he comprehended most of what he said, but they have an open pond with a million (1,000,000) gallons of water in it that they are going to try to control the water quality, but there is no way to guarantee the water quality of that pond and they're being told it's going to be pumped through the sprinkler heads of this assisted living facility and it's going to work fine.

John English stated the initial sprinkler service is being run off City water.

Glen Minich stated he has heard that answer two (2) different ways now. He said it could go either way.

John English stated they could still go either way.

Mike Williams stated they spoke to Mr. English and his group about an alternative for using their system for the sprinkler system in the building in addition to the hydrant system. They can do both with what they have or they can do either one (1). It is the same to them. Obviously, there is extra money to them if they bring their main into his building; that is the only distinction. His understanding though, is that they are intending to use the City water for the purpose of the suppression system inside the building. Open ponds can be used for sprinkler heads with a device that they call a return bends. They are commonly applied by fire suppression contractors. Return Bends are used for open pond sources in sprinkler systems to handle the issue that he raised. It is a design enhancement to a sprinkler system designed to accommodate the grit that they may anticipate with an open source. The intake structure itself is constructed off the base of the pond so that they are relieved from bottom silt and sedimentation and they allow for ice as well in the calculations.

John English stated he wants to make sure that they understand that the stress on public system with the water suppression system in the building is very minimal. That is what Mark was trying to relay.

Mark Riffe stated the fire demand for the fire sprinkler system is going to be way less than the domestic demand would be for this building. With regards to their concerns about sediment, again, the NFPA standard that requires these systems to be maintained has provisions in it to do obstruction investigations on a routine basis to ensure the pipe is clear and unobstructed.

Remonstrators:

Tim Werner stated he is the Superintendent of the City of LaPorte Water Department at 1119 Lake Street, LaPorte, IN. There are a couple points he wants to make really quick. He is unsure if they are aware of the issue with 39 North Conservancy District, but the District is under a physical limitation of fifteen hundred (1,500) gallons a minute. That is at any given time; that is regular domestic use plus fire suppression. The hydrants in that system can throw out about eleven hundred (1,100) gallons per minute. That leaves four hundred (400) gallons a minute for domestic water. Their average usage is between eighty (80) to four hundred (400) gallons a

minute with no high flow fire situation going on. He heard that the City did approve the system in 1998 for what was out there at that time with the promises of water towers and bigger pumps and loop systems being put in that were never done. Twenty-four (24) years later and they're still on the same system that was put in then. He is not here to argue the variance; he is asking that the same restrictions that were applied before to the variance that it is signed -off by the proper local authorities are maintained. There are a lot of moving wheels in this fire system that they have going on and the local fire department and the local agencies should sign-off on that. This is a public safety issue. Nobody is arguing the need of this project or the design of the project. He is not here to argue that. He is here to tell them the facts of the water system. He heard the gentleman talk about the sprinkler systems can run either pond water or City water. That is not allowed by IDEM. That is a cross-connection where pond water could enter into a public water system; it has to be one (1) or the other. It is not allowed by IDEM. He is an IDEM certified operator for the State of Indiana and he is telling them it is not allowed. The City Fire Department has a mutual aid agreement with Center Township. If there was a large fire out there, the City would naturally respond. Their big aerial truck pumps minimum twenty-two hundred (2,200) gallons per minute. It couldn't even run off the City hydrants out there in that area. He knows that the City of LaPorte Fire Department will not hook their expensive trucks up to pond water; they're not going to do it. He doesn't think Center Township runs off pond water anymore. It is hard on pumps and there are a lot of issues there. The numbers he gave at the eleven hundred (1,100) gallons per minute through the hydrants, that is close to Severs Road which is where the water system starts for the Conservancy District. Getting out to Mr. Arnold's property, they only flow about nine hundred and twenty (920) gallons per minute because of friction loss through the pipe. Residual drops down to forty-six (46) pounds. At twenty (20) pounds there is a boil order which is IDEM regulation as well. He's not arguing the variance, he just thinks the proper local officials and agencies should have to sign-off on this project.

Melissa Mullins Mischke asked with respect to IDEM and his certification, pond water wouldn't be entered into a private system. Is that for potable and non-potable water? Does it matter?

Tim Werner stated he thinks that's drinking water. There can't be a cross-connection so even if a home is hooked up to a well and services come out there, they cannot tie in their household plumbing into that well without proper disconnection of the well and the proof that the well has been disconnected.

Melissa Mullins Mischke stated the use of the pond water for fire suppression is separate from drinking water.

Tim Werner stated he gets that, but there is still a connection from that main to a public main via main to a fire main. That is still a connection and that is considered a cross-connection in the State of Indiana.

Andy Snyder stated he is the Chief of LaPorte Fire Department at 809 W. 18th St., LaPorte, IN. He is not here to say that they shouldn't approve the variance, he just would strongly recommend that it be approved in the same form that it was with the same restrictions of the local authorities have jurisdiction approve any design before it moves forward. Having said that, it is unfortunate that it was brought up that this is was a political personal issue. That is the farthest thing from the

truth. This is a life safety issue. That is what he deals with. Mr. Arnold called him pushing two (2) years ago with this project and made the comment that he had an idea. He even indicated that the water flow was not sufficient for the project. He said he had an idea to implement a pond as a supplemental to this. He told him at that time he would look at it with an open mind. He got back with him and told him that he does not see that it will work. It is not within the best interest of public safety. There are too many working parts as mentioned a minute ago. He doesn't see that a feasible option. The best option is to fix the system that is there. Currently, that system, which can be argued all they want, is not sufficient. He respects engineers and even has one (1) in the family, but practical matters rather than engineers. When Center Township who they have a mutual aid agreement with so their personnel can be as quick as theirs with this, when they have on more than one (1) occasion drained the entire system and depleted it by hitting it with their trucks, it tells them that the system is not sufficient. He respects their numbers, but they are not correct. It has been proven in practice when they've hit it that it won't work. It was a good question to ask about what was going to supply it because you can take the pond out of it. If they even want to put that in there as a supplemental, NFPA calls for a supply source that will supply fire suppression operation and also the suppression for the building. Now they are talking about two (2) separate things. Let's take the pond out of it; getting that far north, Tim mentioned nine hundred (900) some gallons is what they can expect at that point. Also, NFPA talks about a minimum of a thousand (1,000) gallons of water supply is needed for suppression and that is at a residential level. He wants them to know they are getting selective information. His whole goal here is life safety. He wants to make sure that they take this into consideration and that again reiterate with a restriction of local authority because that is who it is affecting here. That is Center Township with their input, they will have some authority to say yes or no to this project. He will go back to the pond since it has been brought up and is a topic for them to discuss. While it sounds good on the surface it is a private system. In the City of LaPorte and across the fire service industry, there are multiple private fire hydrants that are connected to the City system, but if their Water Department is not maintaining those through a contract basis and maintaining them and inspecting them twice a year, their Department has SOP that will not hit that hydrant. It is for their safety and the safety of their equipment. Unfortunately, they are talking a million eight (\$1,800,000) for their new ladder truck that they are about to replace. He is not going to hit a private system that he can't trust with that truck let alone to bet somebody's life on it. Unfortunately, they were told it was a personal political issue. Two (2) years ago, there were no politics even heard of in this system and he gave the same answer then. It is not an option.

Paul Skwiat stated he represents the Villas of Briar Leaf Homeowner Association. He is the Secretary on that Board. He has been a resident of the Villas of Briar Leaf, which is on Highway 39, for fourteen (14) years. He did not get all of the details of the attorney's five items that were talked about, but he will say that he is very concerned about items number one (1) and number four (4) as safety issues. He will leave the technical people to talk about the fire suppression, but he will say that this afternoon his neighbor would have loved to have been able to hook up to the pond because their water pressure was virtually down to zero (0) when he was trying to wash his car. The Villas of Briar Leaf have been made aware that they are looking at complete shut down of the public system in 2025 and they are faced with some very serious issues. Villas of Briar Leaf have been identified as a major residential user of the 39 Conservancy water. They are a major player here. The residents, as they speak to the Board, have indicated they have virtually no confidence in the 39 Conservancy. He realizes that is not the BZA's issue, but they are very

concerned that they are not getting answers to the issues that they have for their home residential supply let alone fire suppression and these other things. They are very concerned. They, as the Villas of Briar Leaf, not only oppose and ask them oppose this particular project, but if somebody wants to build a garden shed that takes any water, he will be standing up there again because they have serious issues out there. That pond, God bless the folks if they can put a fire out, but he doesn't know if they'll want to take a shower or drink that stuff because there are times when they might have to do it. They are very concerned and he appreciates the opportunity to speak to them.

Lisa Pierzakowski stated she is the Center Township Trustee. She wants to focus not on the fire issue, but the simple fact that the Mayor has said in many meeting in 2025 he is shutting off the water to 39 North Conservancy. If this property is built, what happens to the people that are living in that property and they no longer have water, number one (1). Number two (2), as they have heard, they have water issues out there right now; if they add seventy (70) flushing toilets to that and running water and showers, as they heard in Briar Leaf, they are already having issues. So, until the water tower is built there is just no way. She thinks it is a great idea and it's needed, but build the water tower.

Edward Arnold stated his address is 4155 N. SR 39, LaPorte, IN. He hopes they are limiting their approval on what is the jurisdiction of this Board. There has been a lot of things brought up that probably shouldn't have been. He will say that his property is one (1) of the most isolate properties they could imagine. Neighbors? He doesn't have any. He owns everything around except for the Hampton Inn and the Pat Kindig property and they have both issued letters of support. This facility they are planning to build has no remonstrators as far as neighbors. In terms of the water issue, this is like a Russian dossier. It is fake news. They have a multi-story hotel there and people are taking showers every day. If the Villa's have an issue, he didn't build the Villa's, but they must have some issues in their plumbing design and inlet pipes. He takes a shower everyday and they are on the high point of the system. Mr. Werner also points out that it is nine hundred (900) gallons per minute, but he challenges that; he has the paperwork and the hydrant in front of his place will flow dropping below pressure fourteen hundred (1,400) gallons per minute. They have bigger pumps than what were originally installed. The fake news is also that 39 North never committed to building a water tower. Never. He was on the original Board. They stated that if a large water user comes in such as a food processing plant, they would have them help pay for a water tower because they realized that would be nice for the City of LaPorte and them, but this is all a fake news thing. They are trying to be pushed to do something that they can't afford. It is a small group. They have asked for help and nobody wants to help. They are taking it upon themselves to put in an auxiliary system. The Hampton Inn loves the idea because this helps their fire fighting as well and any other development around opening up to any other fire department. This has been well thought out, well planned, and over engineered. He is also a State certified fire fighter. He was on the department for twelve (12) years. They have gone way beyond anything that was required. This facility would be approved without the independent water system in his opinion. It would be approved without the municipal system if they had their own well and had the pond for fire, but they have redundancies. Thank you. He looks forward to their decision.

Randy Novak stated his address is 7000 W. 125 N., LaPorte, IN. The difference between the Water Superintendent and the Fire Chief is that they are not on the payroll. Everybody that has spoken here as an expert has a financial benefit that they will get out of doing this project. With that said, no one is objecting to the variance. Allow the variance with the same restrictions they put on it last time that the local authorities have jurisdiction. The thing they are not saying is that the hotel they talk about, the top floor's water shuts off when they have a fire and something happens and the water pressure drops. It's a fact. Portofino's has closed because the water pressure has dropped out there. It's a problem. The Redevelopment Commission that he chairs is working on this. They have a grant in for a water tower. The Mayor is in talks with people about doing a system out there. There are plans to fix it. They just want to make sure that everything is covered and it is done right because there are a lot of moving parts to this. This is life safety and that's what it's about. It's not about financial gain; it's about life safety.

April Daly asked what happened twenty (20) plus years ago that they are still talking about that it's not done from the City of LaPorte.

Randy Novak stated twenty (20) years ago there wasn't the business and residents and everything out there. There was enough water flow at that time. The system was never designed the way it was originally planned to be. The plans that he saw and with talking with the Superintendent from the Water Department, that is the information that he got. It came about because being the Chairman of the Fire Chief's Association, they had a fire out on the island and Coolspring Fire Department stopped at one (1) of the hydrants on Johnson Road and 39 North goes out there. It is teed off of that and goes down Johnson Road and all the way down if those hydrants are opened, it takes off of 39 North. It's like having a garden hose stretched out there and then they teed off of it another way. If they open it up out there, they won't have much where it's needed. They filled their truck and the Superintendent before Mr. Werner, God Bless Him, came over to the guys and ripped them a new one saying they are going to cause all kinds of problems and that they can't just open a hydrant along there. They had to have a sit down in Chief Snyder's office to explain the system and why they couldn't just fill a hydrant there. That's when all of it started and they have since been working on it and trying to get it fixed. No one is against this project. Absolutely no one is against this project. He will be the first one (1) to cheer this thing on. His concern is only with the water. That's why they can give the variance tonight as stated this Board has limited jurisdiction, but with the restrictions that the local jurisdiction has to approve the fire suppression system as they did a year ago.

April Daly asked how long it will take to get it to where it needs to be so they can start the development. Are they talking years? Five years? Ten years? What are they talking?

Randy Novak stated he has no idea. Without getting into what 39 North does in this whole thing now, 39 North bonded this, put in the water system and charges the residents out of their money for the water. They buy it wholesale from the City of LaPorte. Where are they at in this game? Where are they at to say they need to fix this out there? The hydrants right now give a false sense of security to these people. That's his thing. He cares about the water and life safety. He is not against Mr. Arnold. He is not against this project at all. He just wants to get it fixed. The Redevelopment Commission is spending money to apply for grants and using their personnel to do this. They are working at it.

Andrew Voeltz stated he doesn't know what to say at this point. It's quite clear that regardless of anything that these remonstrators have said that this is not a political issue that it certainly is. They are talking about a failure by the City twenty (20) plus years ago that is now being foisted upon his client that have the ability to enter into a fourteen-million-dollar (\$14,000,000) project that is going to bring one hundred (100) construction jobs, fifty (50) full time nursing jobs, let alone support staff. They have these local folk, which he completely respects, he respects Mr. Novak, Chief Snyder, all of them, but when the State Fire Marshall and the Indiana Department of Homeland Security signing off on what this is and they have attempted to get Center Township to sign-off on it, but they've been told that they won't sign off on it without a water tower. There is nothing in this variance that requires a water tower. He understands the previous variance that was granted requiring local support, but when it becomes a political issue that this is being used as a pawn to facilitate the development of a water tower and say they are doing this and that and that the City is shutting the water off in 2025 or whatever else, great, but that doesn't help this here. They have over a million dollars (\$1,000,000) invested at this point that is going to go away and this project will never happen if this variance is not granted. He understands this Board has the ability to require certain jurisdictional requirements, but when those jurisdictional requirements respond to him and his requests, or refuse to respond, and then say they won't talk about it because it's a no go because there is no water tower. He can't see how that is anything other than a political issue and that is a problem because politics don't play a role in the requirements and elements under the granting of a variance under the JZO. There are five (5) elements. They have identified them. They have experts that have testified as to such that this meets and exceeds requirements. He understands what Mr. Novak and Chief Snyder are saying that they are not going to plug into a pond, but then how is the State Fire Marshall approving this? How is the Indiana Department of Homeland Security approving this? There has to be fail safes in place. Again, this is a redundancy system. There are two (2) things working together here and they are trying to make the best of a situation that will allow for development out there and to allow for a facility to care for our aging population, which LaPorte County is much above the median at this point which can be seen from the ranks of the Bar Association and the number of attorneys above sixty (60) versus the number of attorneys that are below the age of forty (40). This is a need. They would ask that this Board would grant the variance without restrictions, but then if the restrictions are put in place which they have the ability to do, that then the local jurisdictions or whomever they need to contact for approval actually engage in good faith and don't just say, "No. If there's no water tower, we won't do it." There's nothing in there about a water tower. And again, they have a water tower in the ground to the tune of a million (1,000,000) gallons. They would ask that this variance be granted.

Adam Koronka stated there has been a lot of discussion about sign-off's by local authority. Do we have any record of what the previous motion was?

Dwayne Hogan stated he believes he made it and requested all the local authorities involved in this to sign-off on it. He believes it was Center Township, the Trustee, and whatever governing body touched that part of it to make sure they were all on board with it before anything goes forward. He applauds the effort. He agrees with everybody in the room tonight. They have to absolutely do something. He is a part of those figures in this State that hits that number over sixty-five (65), but his heart tells him with his thirty-eight (38) years of fire service that he

listened to the Chief's here and it is the right thing to do and they need to have the authority signed off by all parties involved with it. Let's not get political; he's making it a safety issue. He's the one (1) that has to think about that when he isn't on this Board and his kids will be up there and that. That's what has to be thought about; what made it safe? Not that they sat here and made a decision because they thought it might have been the right way to go when they know in their hearts that it has to be signed off and people have to have the input to it.

Attorney Biege stated he wants to make sure the Board is clear, in Section 14.08 (c) it covers nursing homes and senior assisted living. There is a sentence that he wants the Board to be aware of. He will read it to them because it is short: The nursing home or senior assisted living facility shall be inspected by the fire department and the County Board of Health for compliance with the fire code and health code requirements prior to occupancy. That is a little different from what they are asking for here. The distinction is that the JZO says it can be built, but nobody can move in there until the local fire and Health Department say it's okay. That's already built into the code, but it's built into the code for after the building is constructed which is a little backwards, but he didn't write this section. That's a different thing; the limitation is there, but at the end of construction not as a condition of the variance. They can do both. He wants to make sure the Board is aware of that.

Dwayne Hogan made a motion to approve the Petition for Variance of Use for Edward W. and Debra S. Arnold represented by counsel Andrew Voeltz of Howes & Howes, LLP for construction of a 68 – 70 unit assisted living facility with potentially 6 – 8 detached senior villas, which would be allowed if the property was zoned B1 or O1 with the stipulation that Trustee and any governing body that touches this project will be required to sign-off. The property is located at 4155 N. State Rd. 39, LaPorte, IN., Center Twp., zoned B3 on 4.01 acres.

Michael Polan asked for clarification. There seems to be some confusion in the design part.

Dwayne Hogan stated he wishes he had a list of what he specifically said last time. He believes it was the Trustee and Center Township.

Michael Polan stated it's like Attorney Biege said, the local fire has to inspect for our compliance with the fire code prior to his office issuing a certificate of occupancy. There are multiple jurisdictions involved. There is the State Fire and DHS providing the State Releases on the designs plus the engineer stamps. Then there is the local fire jurisdiction signing off on the inspection prior to issuing the certificate of occupancy. Even if this Board were to grant approval of this tonight and the designs were approved by the State, if it's built and it doesn't perform during the inspection, then no certificate of occupancy will be granted. He wanted to make sure that is clear.

Dwayne Hogan stated it's clear and he appreciates it. He still wants the input put in up front.

Attorney Biege stated they need specificity on who. For example, with all deference to Chief Snyder, they have a mutual aid agreement. The City of LaPorte at this point does not have jurisdiction. That will be Center Township that will make that call on fire. If they want a supplement on water then it's not 39 North Conservancy District. They can add qualifications on

their motion for other entities, but they should identify who they are or should be and the timing whether it should be prior to the issuance of a building permit, which he would recommend, from the Building Commissioner. That way, the Building Commissioner is clear which checklist he has to have before he issues a building permit.

Adam Koronka stated the previous motion stated local and state agencies and departments whose jurisdictions how said structure and complexes are to be built. That is the terminology of the motion. As they are sitting here and discussing this, between the mutual aid agreement between the City of LaPorte with Center Township, he would also say that it should be 39 North Conservancy and Mr. Werner's office being how he is impacted by the water system.

Dwayne Hogan stated those four entities would be an addition to and along with.

Adam Koronka stated at issuance of the building permit or?

Dwayne Hogan stated up front for the planning stage of it all.

Adam Koronka stated for the building permit then.

Dwayne Hogan stated they said Center, LaPorte, 39 North, and who?

Adam Koronka stated Center Township Fire Department, LaPorte City Fire Department, 39 North Conservancy, and the City Water Superintendent.

Attorney Biege stated Center Fire, City of LaPorte Fire, 39 North Water, and City of LaPorte Water.

Adam Koronka stated yes.

Dwayne Hogan amended his motion to approve the Petition for Variance of Use for Edward W. and Debra S. Arnold represented by counsel Andrew Voeltz of Howes & Howes, LLP for construction of a 68 – 70 unit assisted living facility with potentially 6 – 8 detached senior villas, which would be allowed if the property was zoned B1 or O1 with the stipulation that Center Township Fire Department, LaPorte City Fire Department, 39 North Conservancy District, and LaPorte City Water Department will be required to sign-off prior to the issuance of a building permit. The property is located at 4155 N. State Rd. 39, LaPorte, IN., Center Twp., zoned B3 on 4.01 acres.

Glen Minich seconded.

Approved. Motion carries 4-1.

Andrew Voeltz stated for clarification purposes, they have been presented with a letter from 39 North expressing support for this so they would be off the table with regard to anybody checking off on this based upon what has been submitted on the record tonight.

Attorney Biege stated the motion has been made and passed. The letter is part of the record.

3. Petition for Special Exception for Open Road Renewables, LLC and Monroe Power, LLC represented by counsel Anthony Novak of Newby, Lewis, Kaminski, and Jones, LLP for creation of a “utility substation”, specifically a battery energy storage system (“BESS”) facility. The property is located east of 6044 S SR 104, Walkerton, IN., Lincoln Twp., zoned A on a total 71.15 acres. Parcels 46-12-30-100-010.000-055 and 46-12-30-100-008.000-055.

Attorney Biege stated it was not necessary to re-notice because they tabled to the next meeting for additional information. He wants to clarify that tonight is the answer to the Board’s request for additional information only.

Melissa Mullins Mischke stated that congratulations are in order for Anthony Novak.

Anthony Novak stated yes. Three weeks ago, they have a baby girl. She is healthy and his wife is healthy which is a good thing. He doesn’t have very much sleep, but he’d rather have a healthy baby than sleep so thank you. He was able to get off Dad duty for a little bit so he could present tonight rather than hand it off to his partner and as Doug indicated, he wants to remind everyone where they left off last month and talk about what they have done since then. Then he will turn it over to Cyrus who will elaborate on what they have done since then and the conditions that they are going to impose on this project. At the end of last meeting, this matter was tabled. Some of them asked for certain things. Dwayne specifically said he wanted to make sure there was enough information without having additional contingencies and asked if Board members could submit questions. Glen asked that they submit information related to an Emergency Management Plan, training, and other things to make the project safe. Melissa ultimately asked if they could make that information available to the public. They have done just that. What Cyrus is going to elaborate on tonight is the questions they have received from the Board and Mike Polan. They reached out to some community members, some of which attended last month’s meeting to provide them additional information and address concerns, which includes Mark Parkman who was present at the last meeting on behalf of Farm Bureau. He spoke to Mark Parkman today and provided him some information. They also spoke with Randy Novak in his capacity as a former Fire Chief of the Michigan City Fire Department and current Chairman of the LaPorte County Fire Chief’s Association. One (1) of the biggest things they did on May 9th, was they hosted a meeting with various fire and EMS personnel where they had an expert on energy storage systems from American Fire Technologies discuss fire safety related to these systems and address any questions. There was good attendance, but some people to note were Jeff Hamilton from County Hazmat and the Assistant Chief of Walkerton Fire Department, Bill Duttlinger Chief of Lincoln Township Fire Department, Kevin Bluhm of Pleasant Township Fire Department, and Jim Pressel State Rep. Finally, Melissa asked that they have information for the public and they created an informational packet that each of them have in front of them that have three (3) sections to it. It has a question and answer; they took all the questions that they received and each time they received them they updated the website so the packet was updated a few times, a total of five (5) times. It has five (5) conditions that they are going to voluntarily impose on themselves prior to a building permit being issued. Not to go into all of them, but take for example number one (1). The first one (1) is an Emergency Management Plan and it has terms of

what the plan will include and they will be submitting that to the County and prior to the County actually issuing the permit, they will have the final sign off and discretion to say if everything is there that they do in fact need to see. That is just one (1) of the five (5). As indicated, that was available to the County's website. At this point, he would like to turn it over to Cyrus to elaborate on that additional information.

Cyrus Tashakkori asked if everybody can see his screen.

Melissa Mullins Mischke stated they can now.

Cyrus Tashakkori stated as mentioned he will skip forward to the new items and responses to questions. A few of the slides show the fiscal benefits of the projects, the location of the project at the bottom of the seventy-one (71) acres not the whole seventy-one (71) acres, and a close up showing mostly space including the stormwater area and all the space between the battery containers, setbacks around it, the landscaping, etc. A couple of updates: he has mentioned during their presentation last month that they had done wetland studies and were waiting for the Army Corps of Engineers to affirm or confirm their analysis; they have done that now and they have provided that to the County. As Anthony mentioned, with a lot of input from County staff, EMS, firefighters, members of the public, and LaPorte Hazmat, they agreed to five (5) permitting conditions. They discussed some of them last month during the hearing: a decommissioning plan that included a bond, annual EMS training for the life of the project every year, detailer criteria for a site-specific Emergency Management Plan as Anthony mentioned the approval of which would be a condition of getting the building permit, installation of an on-site water tank/tanks accessible to local EMS and fire fighters and a Knox Box for easy entrance for EMS and firefighters. He did also want to share something that happened since the last hearing. This has been happening for a while, but there is a precipitating event he wants to share. Over the last several years and projected looking forward, Indiana is going to be short of capacity and that is not unique to Indiana, but it's something that is happening nationally as temperatures rise, electric demands rise, and old power plants start to be mothballed. Capacity here is a technical term; it's a grid service that are provided by resources like battery energy storage systems or natural gas plants and they help maintain the grid stability and reliability especially during high demand, high heat, or outage events like heatwaves and storms. April 28th, about two (2) weeks after the hearing, the Mid-Continent Independent System Operator (MISO) announced the results of an annual capacity auction they do and the area the encompasses Indiana of the grid, the price just jumped forty-six hundred percent (4,600%).

Attorney Biege stated this is outside the scope of what they agreed they were going to do tonight.

Cyrus Tashakkori stated he is happy to skip it if they don't want to hear about it.

Melissa Mullins Mischke stated as long as it's going to be the new information and not revisiting information that they have already heard.

Attorney Biege stated they are here to cover the five (5) points the Board asked for, but this is not a reopening of evidence. He wants to make sure they are clear on what it is they're doing.

With all due respect to the presenter, the Board had specific questions and that's what they are going to tackle tonight. They are not going to reintroduce new evidence.

Anthony Novak stated they can move forward on that slide. He thought it was informational, but it's not problem; they will move forward.

Cyrus Tashakkori stated he has a clarification on the ownership, but he needs to know if it's appropriate to talk about the long-term ownership; it was a question from a Board member at the end of the presentation last month.

Anthony Novak stated he believes it's appropriate.

Cyrus Tashakkori stated that while this project is adjacent to NIPSCO's substation in NIPSCO's service territory, Monroe could ultimately be owned by other Indiana public utilities like Duke, AEP, or IP&L, etc. As mentioned, a couple slides ago, the product that they are providing which is capacity is very important to keeping prices down and having grid reliability and all of these utilities all have active RFP's out right now looking for capacity from resources like battery storage. All of that is kind of a moot point until they get an approval from this Board and that is an early gating item before they can go and finalize discussions with the NIPSCO's and the Duke's. He wanted to clarify that this is not somehow only a NIPSCO project. It really could be a number of different utilities that could own this project, but the early first step is this Board's vote. With that he will see if they have any questions. He appreciated the time and consideration.

Anthony Novak stated that the five (5) conditions that they are willing to impose are rather in depth. The Q and A is rather in depth, but in the interest of time, Doug indicated that there was information that they wanted to receive so they are certainly happy to hear, talk and clarify those things, but they have submitted this information and want to answer whatever additional questions they may have.

Adam Koronka stated from the Q and A section under the lessons from Surprise, AZ BESS fire in 2019; they did give details that does seem in line with part of the recommendations. One (1) of the biggest things mentioned was cell to cell cascading and ventilation; how is that incorporated into this design?

Cyrus Tashakkori stated first off, the facility that he is describing is a facility where humans walk into the facility. They open the door and they enter. That was critical to the failure in Surprise, AZ. Since that facility, which was installed in 2017, the industry has moved away from those types of containers into these containers that they are proposing which essentially open from the outside, there is no entrance into the container which introduces all kinds of risk when a container is opened that might have emissions and things like that in it because of a fire. That's basically what happened in Surprise, AZ. Step one (1) is redesigning all of these containers to avoid that type of possibility and for the same reason, move away from building based designs where instead of containers they have batteries in buildings. This is neither of those; it is container based. The other failures in Surprise, AZ were really education, training, and information related. The EMS, for example, did not know that there was a battery storage project out in Surprise, AZ so when they arrived to respond to this emergency, they had no idea what

they were responding to. That is completely one-hundred and eighty degrees (180°) different than their proposal here and their approach here. He doesn't think any battery storage project in the Country would ever be permitted without something much more robust like they are presenting here. Those are two (2) of the key responses to what are the lessons learned from that event.

Adam Koronka stated more on the technical design, to be clear, the cell to cell spacing and open ventilation from cell to cell is naturally more open in the industry now versus than what would have been provided five (5) years ago.

Cyrus Tashakkori stated no. Again, the cell to cell spacing was not a central issue of that emergency. Basically, there was battery failure and there were gasses released and because there was no training when they opened the container when they should not have approached the container and that created the incident. It is almost entirely a combination of the fact that there was a door to open and the fact that the EMS folks had education or knowledge of the facility even so it created a perfect storm. Of course, this is completely different than that.

Melissa Mullins Mischke stated before they check for remonstrators, she would like to invite State Rep Pressel up as he may have had some additional information. He is sitting on our legislature currently and has some information that maybe they would all like to hear before remonstrators.

Jim Pressel stated he is State Representative for District 20 and his address is 1772 N. Lofgren Rd., Rolling Prairie, IN. It has been a busy night here tonight. They have heard a lot about safety. They have heard a lot about codes and restrictions. They are hearing about new technology. He doesn't know about them, but this is new technology to him and he sat on Utilities in the House two (2) years ago. Two (2) years ago they created Indiana's first Energy Task Force. As Indiana moves into more renewable energies and new technologies, there is a huge need for stakeholders to be at the table, experts to be at the table, the public to be at the table to voice an opinion on it, the State Fire Marshall to be at the table to talk about what new technology they should be allowing and at what capacities. What is the need for specific capacities like the batteries? What is the proper amount of solar, proper amount of wind, the proper amount of coal as it phases out? MISO did forecast that there will be a demand uptick. NIPSCO responded with that properly saying they will continue Wheatfield for another two (2) years as technology develops. Through this task force, they take all of that into consideration. Currently, there is only five (5) of these that exist in the State right now, the largest being of twenty (20) megawatts. That's not very big. The smallest which is extremely experimental is point-three (0.3). All five (5) of those are owned and operated by regulated utilities. They're experimental still. They are still trying to figure this out. This is way above his pay grade. He depends on what comes out of this Task Force and all of this testimony that then turns into legislation. Through that Task Force, the Planning Commission just adopted just recently some wind and solar stuff, solar in particular. That was derived from, given the boiler plate from the State on what they think it should be, and they then make the local decision. That came from that Task Force; that is legislation that came from there. What he is going to say is please don't get in front of the State. Then he will back up and say that in six (6) years his philosophy is to stay in his lane; he has never been in front of this Board, the Commissioner's, or any other board. His job is to provide information, to be a conduit through

the State agencies, and to provide the tools that they need to do their job here locally. This is the first time he has been in front of a commission or board. He feels very strongly that because there are only five (5) there, this is calendared for September to be a part of the task force, they need to pull back on the reigns and wait to see what the General Assembly comes up with or at least until September to see what questions are brought before the General Assembly and that task force. The Task Force is not only made up of legislators, but Duke Energy has a seat on that, and the stakeholders that are there. Good things really are going to come from that in a good positive direction. He was doing a little bit of research and he was concerned if they had spoken with IDEM. Has IDEM been brought in: they have not. He is encouraged to hear that at least Army Corps was brought in because his report back from IDEM after sending them what information they had originally was that just looking at it quickly there were some mitigation issues here. He is glad that Army Corps concurs. He is surprised that it is jurisdictional water there, but it's good to know they've gotten that far. DNR has never been contacted about this project. IURC has never been contacted about this project. He spoke with NIPSCO over the past week which is why he is glad they clarified tonight that this would not be intended for only for NIPSCO to make this purchase because NIPSCO has had no communication with anybody here. They've had an RFP out that was issued from MISO. They may have looked at this project not knowing it was Monroe or whoever because all they had was a MISO number. There is still a feasibility study that needs to be done before an interconnect can be done. They still need to go before the IURC which is a six (6) month process. There are a lot of boxes left to check. He doesn't know if there is an urgency that this needs to move forward before they can give them good guidance and let them make good decision based on a boiler plate template to where they can adopt an actual zoning ordinance that will pertain to these types of structures. He would ask them to hold off and not get in front of what they are about to do so they don't have to redo it. He would be happy to take questions.

April Daly stated it will be up for the legislator in September.

Jim Pressel stated it is calendared for the Task Force. He spoke to the Chairman this afternoon; it is the last meeting and it will be in September. That is just the Task Force. When the Task Force is completed either the Chairman or himself will be offering legislation to address these types of facilities.

April Daly asked who is on the Task Force.

Jim Pressel stated it is made up of four (4) legislators and six (6) stakeholders; two (2) are governor appointments and some of them are utilities. IURC has a seat on it he believes.

April Daly asked if he has talked it over with Republicans and Democrats so there is buy-in because they all know how things are operating right now.

Jim Pressel stated this is a task force. It is appointed by the Governor; it's the stakeholders. This is not a partisan issue whatsoever. It is not done by the General Assembly. The General Assembly said they need a task force because they need to see which direction they are going on this.

Dwayne Hogan stated that was a good question.

Melissa Mullins Mischke stated there has often been petitions in front of them that they make a decision at the local level, but it still has State regulations that they need to meet in order for that project to move forward. Just because they make a decision to say they think the project could move forward doesn't mean that it will because they still have all those boxes that needs checked from the State level. With them saying yes or no tonight does not make it mean that it will go.

Jim Pressel stated yes. They wouldn't have to check the boxes, but what he is really trying to press upon the Board is that they are going to create policy that directs this for them. If they make a decision on it, they could be outside of that policy box.

Attorney Biege stated a good example, which congratulation Board as they don't ask about septic nearly as much anymore, but there are septic regulations. It goes through the Health Department. The commercial projects go down to the State and they look at the commercial projects for fire, design, etc. Those mechanisms are in place. A lot of times he will tell the Board that that mechanism or that protection is already in place down State. His perception is that none of those protections are in place down State on this project. He uses the word protections, but overseeing. They don't have overview because this is so new. Those comforts that he gives them on most of the other projects they see do not yet exist yet on this project.

Jim Pressel stated that is absolutely correct. It's almost like they dealt with nuclear compacts and very small nuclear modules which is new technology. They just went through that task force developed policy around that based on what's safe, what's good, and how many of these can they have as they don't want anybody to overbuild things and then not have a use for it. There's a lot of what ifs out there just with the technology. He is asking the Board to let them do their job before something like this happens. There has to be a reason that there are only five (5) of these and twenty (20) megawatts is not very big at the largest one in the State and they are all owned and operated by regulated utilities, not speculative developers that have come to town. A red flag for him, is that if there is a tax abatement on this, why didn't it go to the Council first? The only thing he can think of is if it went to the Council, there would be more public engagement because then it will have to go to the Commissioner's where there's more public engagement. They have missed some process here and he doesn't see the urgency that this needs to move right now. He just doesn't see it. Thank you for their time and allowing him to say a few words.

Remonstrators:

Christopher Williamson stated his address is 4102 S. SR 104, Walkerton, IN. He is an adjacent landowner to the farm in question. The scope of the Monroe Power Project, which is compared to last months, has changed dramatically. NIPSCO has been taken out of the picture where last month they were on the shortlist; that's new.

Attorney Biege stated he can address the answers to the questions that the Board asked. If it's in the packet he can address it.

Melissa Mullins Mischke stated remember he will have three (3) minutes.

Chris Williamson stated it appears that there is a possibility that Monroe or whoever is doing this isn't aware of the 345-line coming into the substation right now from New Carlisle. It is coming down 600 E right now and has traveled about eighteen (18) miles so far. They asked if any special equipment would be needed in the event of an emergency and they answered that it handles like a Class A fire although it is not a Class A fire because you don't just let it burn out. The last question on that page was what do they do for fire suppression and they have removed the fire suppression and reference a Tesla megapack that in July of 2021 in Australia they had one (1) of the two (2) battery container blow up and they are proposing one hundred and eight (108). It took one hundred and fifty (150) firefighters four (4) days and thirty (30) fire trucks to make it stop and it was from one (1) coolant leak where one (1) lit another. It was only two (2) and it took four (4) days and a hundred and fifty (150) firefighters to put it out. The second page when asked who they decided as a manufacturer stated they are ultimately hoping that NIPSCO would do it, but they ultimately said NIPSCO or some other company would make the design which the Board questioned. There is no design. It is all speculative and procurement. Right now, it doesn't even appear that they are going to procure. They are purchasing the land, getting the approvals, possibly offering the labor to do it, but wanting someone else to design and procure all the equipment. One (1) of the most important things is the temporary storage of used batteries. That is huge. They say a sealed temporary storage bin, but it has not been specified on the current site plan, yet on the current site plan they get down to the nitty gritty on how they will tie off the pine trees and how high up they will go before they put the ropes on, but they can't add one (1) little rectangle where they are going to put storage of the used batteries. Why isn't it on there? It just doesn't make sense. Being investigative, they don't really know, but they say the batteries will last about ten (10) years, but that's in Texas. Up here in this climate, they are averaging four-point-nine (4.9). So one hundred and eight (108) semi-large batteries in five (5) years will leave them with one hundred and eight (108) semi loads full of batteries. This is the first one (1) as far as Monroe as far as this kind; they do solar fields. This appears to be the very first battery storage system that they are doing. They are also adjacent to an eleven (11) acre parcel that is considered wetlands and it is classified wetlands to the south. Their layout does say that they are going to do some deforestation still and it still references another company called St. Joseph Phase 2, still has an option to purchase. He asks that they unanimously deny the petition this evening and revisit it after legislation goes through.

Anthony Novak stated he would like to address one (1) thing and then turn it over to Cyrus and David on more substantive things. Certainly, he respects Representative Pressel, but one (1) thing to clarify is the fact that they have not gone to Council for abatement because they are trying to avoid public engagement. They haven't gone to Council because they don't have a permit to actually build the project. It's clearly not because of the fact that they are trying to avoid public engagement; he wanted to clarify that.

Cyrus Tashakkori stated he wants to try to address some of Representative Pressel's comments. First off, he is happy to hear that there is focus on this in a task force. This technology is not new; it is new in Indiana, but it is not new nationally. There is quite a bit of battery storage in other States and Indiana as indicated by every public utility that is a regulated public utility putting out RFP's to be the owners of projects like Monroe. As a matter of fact, Duke Energy owns a lot of battery storage. NIPSCO has started to own battery storage. The oldest facility in

Indiana is owned by Indiana Power & Light and while the design is the less safe building-based design they discussed; it is actually the same technology. It is lithium ion and they now have eight (8) years of experience with it. It really is good to see the Indiana legislature engaging on this. There is always going to be an opportunity to improve and they absolutely expect that they will see evolution in Indiana on statewide policy. That said, this is a land use question and what they have put before the Board is not going to last forever. This project will die on the line if a land use approval, which is a gating item. It is an early approval. A lot of the stuff like stormwater plans have to be finalized and approved. On the final design, for example, there is a lot of stuff that has to be approved, even the tax abatement would have to go through and be approved or not. None of that can happen if this project just sits here and doesn't get a land use approval and it does have a feasibility study from MISO. It has a system impact study from MISO. It has a facility study from MISO. It is on track with all 2019 MISO projects to get its interconnection agreement. There may be some bad information out there, but the topic of NIPSCO he frankly can't talk about certain issues with certain parties because of confidentiality provisions that he wasn't as sensitive to the last time he spoke with this group, but he can say that they can go out and look at the NIPSCO RFP. It's not a MISO RFP, it's a NIPSCO RFP and in the RFP it specifically requests battery storage that can come online in 2025. It is asking for large battery storage; in fact, they have a minimum size. All of this goes away if they can't keep this project moving forward and the first step is a vote to approve by this Board. If they look in the MISO queue under projects for development, there are not a lot of projects under development in LaPorte County. The tax revenue that goes to LaPorte County is limited to two (2) projects; this project and one (1) other. To the extent that LaPorte County would like the revenue that comes from these projects in the next five (5) plus years maybe to pay for a water tower. Frankly, work with them here and they can make the project better and certainly work with the legislator to make the project better, but he thinks there is a lot of education that needs to happen on all fronts here on this type of projects. David can answer more specific questions; DNR was raised.

David Savage stated his address is 1105 Navasota St., Austin, TX. He wanted to mention briefly that they have thoroughly vetted the project for environmental and natural resources constraints as some of the information that has been to the County indicates. It is routine in their experience in Indiana and in other jurisdiction in the Country that when they seek a land use permit or land use decision as they are this evening and through this application that they know they may have other obligations such as State environmental obligations through DNR or through IDEM. Those are usually vetted fairly thoroughly in advance which they have done in this case and they don't think there are any significant issues, but if there are any requirements, they would obtain those from those agencies in due course prior to the start of construction. That is routine and would be done here. The fact that those minor authorizations, if any, haven't been obtained are just because they are at this point and process of seeking the basic land use and zoning approval. Same thing for the IURC that's a State and energy regulatory layer that can apply to the project, but is simply another layer that they will have to get through before they begin construction, arguably not a reason not to consider the land use decision which is really what is before the BZA this evening. With all respect to Representative Pressel, there is a task force based guiding the subject that may have good recommendations for jurisdictions in Indiana. They see those kinds of task forces and jurisdictions on a variety of issues across the County. Views evolve on how to treat different land use proposals, but there is no particular reason for the BZA not to

consider the information that has been put before it and allow the project to move forward in the process.

Anthony Novak stated they have incurred indicated in these conditions to the extent that there will be further legislation as they move through this process. They did indicate previously that it will be at least three (3) years before this would occur and if something is going to happen in September, they are certainly happy to adapt to whatever legislation may be adopted, but then again, this is kind of a threshold issue. They need this step in the process of many to move this forward. They ask that they would give this that approval so that they can move this forward and that this revenue can come to the County.

Attorney Biege state Mr. Novak called him when this first arose and rightly so. He asked him what this is procedurally in front of the Zoning Board. He decided the best way to make the request would be through a Special Exception because that is how they handle chemical plants, rifle ranges, and things that when they drafted the code thought the Board would want to look at it more closely than normal and that's exactly where they are here. They have no ordinance in place or regulations, but yet they have to handle and review this request. They have the elements of a Special Exception before them, but he wants to remind them why the category of Special Exception exists. It exists because they have facilities that they want to take a closer look at than the normal zoning slots. They have their elements here and they can impose conditions on an approval although since these mechanisms do not yet exist, he doesn't know what conditions to recommend for them to impose.

Adam Koronka stated right now there are a lot of things going on with power companies and everything else, but is there currently a power purchase agreement in the works or in place with anyone?

Cyrus Tashakkori stated they would not be able to get a power purchase agreement without a land use approval from this Board. It's in reverse order. They must know as a counter party and in those agreements, they put down a substantial security of risk to secure ties and the agreements. All of those things and the decision to enter into a contract with Duke or NIPSCO or whatnot, the power purchase agreement, some of the late stage permitting items that the Representative raised are all contingent on knowing that they have a land use approval. In fact, they could place conditions like they must get all of the things they need from DNR as a condition of their decision, but nobody would have a power purchase agreement before they land use approval. In condition one (1), it does reference a whole host of federal standards, fire safety standards, etc. They went through these in length with the EMS and fire community locally and most importantly that condition requires that the Emergency Management Plan be approved by the County as a condition of the building permit being issued. To the extend that they wanted to see a site-specific Emergency Management Plan that addresses this volume of requirements, to the extent that they wanted to see something new or reflect something new in State law or regulations could go in there and they would not be able to get their building permit until they approve that. Just flagging that if they have not looked at the condition closely.

Attorney Biege stated let's be clear. They have no Emergency Management Plan because they are not sure how to draft one (1) because they do not have adequate information or he would

have drafted one (1) and put one (1) in front of them. Let's not pretend they have information that they do not possess. They can make an Emergency Management Plan a condition of your approval, but he cannot give advice to the Board as to what should be in it because they are relying completely on the Petitioner for this information because there is no one (1) in the County that has that information to provide them. He's not trying to sway the Board's decision one (1) way or another, but be careful if they do impose conditions because he needs to have the information to draft what they request and there is very little information to work from outside what they have been given. The Petitioner has been very good about providing information; he's not saying they haven't been. They just don't have an independent source to draw from at the County level.

David Savage stated they really want a final Emergency Management Plan that is specific to the technology. A Tesla Emergency Management Plan is going to look different from another manufacturer. Therefore, this is a gating, a land use decision pending approval. Subsequently, once they see the Emergency Management Plan and are happy with it in a year or two (2). Until then, they can't build anything. There is not a risk that they will be building this before they see a site-specific, technology specific Emergency Management Plan. Until every concern that they have is addressed they can't build the project.

Melissa Mullins Mischke stated understood.

David Savage stated this is a land use decision, discretionary decision, and the conditions here can really be what governs the issues that are being raised.

Attorney Biege stated point of order Madame President. He is trying to give them legal advice and this is not discussion.

Dwayne Hogan stated he wanted to say thank you to everybody that has been working on this and putting it together. Especially thanks to Doug for everything he has done too. With the potential of looking out there for some type of a task force to meet and for them to get some adoptive legislation to come out of it and give them guidance and without putting the Board in a position where they have to have duplication of effort and rehash it all over again, he would suggest that they postpone this or table it until at least the October meeting and give the people a chance to put something together. They can then bring something back for them so they can have better clarification for what they want to have for it.

Dwayne Hogan made a motion to postpone until October the Petition for Special Exception for Open Road Renewables, LLC and Monroe Power, LLC represented by counsel Anthony Novak of Newby, Lewis, Kaminski, and Jones, LLP for creation of a "utility substation", specifically a battery energy storage system ("BESS") facility. The property is located east of 6044 S SR 104, Walkerton, IN., Lincoln Twp., zoned A on a total 71.15 acres.

Adam Koronka seconded.

Jim Pressel stated the Task Force is going to meet in September. The General Assembly will not have legislation until January. That report will come from the Task Force, legislation will be

developed from that report, and then it will go through the process. The process will be January through the end of April. It won't become law until next July unless he asks for an emergency to be declared; then it becomes law the day the Governor signs it. Postponing it until October. . . there is nothing he could give them. Postponing it indefinitely?

Dwayne Hogan stated he thought that from the Task Force something would be resolved by the October meeting.

Jim Pressel stated is what the Task Force does is take all the testimony and information and from that they base the legislation on it. There will be testimony that they could possibly use, but he won't be able to give Doug anything to draft from.

Dwayne Hogan stated in order to revisit the motion, he wants to make sure they give the Board adequate time to digest the information when it comes back to them to make an intelligent decision on it without having to go through duplication of effort and having meetings like this where they can't get anything accomplished.

Dwayne Hogan amended the motion to postpone indefinitely the Petition for Special Exception for Open Road Renewables, LLC and Monroe Power, LLC represented by counsel Anthony Novak of Newby, Lewis, Kaminski, and Jones, LLP for creation of a "utility substation", specifically a battery energy storage system ("BESS") facility. The property is located east of 6044 S SR 104, Walkerton, IN., Lincoln Twp., zoned A on a total 71.15 acres.

Adam Koronka seconded.

Approved. Motion carries 4-1.

4. Petition for Variance of Developmental Standards for Martin and Laura Cleland for converting a barn into living quarters and care for the elderly mother. This makes a 2nd dwelling. In future to keep as a guest house. This property is located at 9601 N. 600 W., Michigan City, IN., Springfield Twp. zoned R1B on 9.129 acres. Parcel 46-02-18-151-007.000-062.

Attorney Biege stated notice is adequate.

Martin and Laura Cleland stated their address is 9601 N. 600 W., Michigan City, IN.

Melissa Mullins Mischke stated let's talk about this barn they want to convert. Whose Mom is going to live in there?

Laura Cleland stated hers.

Melissa Mullins Mischke asked how long it will take them to start work should they approve this.

Martin Cleland stated within three (3) months, maybe four (4) at the most he is hoping.

Dwayne Hogan asked which barn they are going to convert: the metal barn or the wooden barn?

Martin Cleland stated it is the wooden barn. The main part has a concrete slab. The other part isn't.

Dwayne Hogan asked what his plans to change it over are. Is he going to tear it all down and start over?

Martin Cleland stated no. The actual part on the lean-to part is going to be taken off and rebuilt because that he intends on putting the kitchen and bathroom in because it is a dirt floor still and that will have concrete eventually, but right now it doesn't have a good foundation around it. The rest of it is already a good concrete base with a good foundation.

Dwayne Hogan asked if once all of this is done, are they wanting to keep it for a future guest house.

Martin Cleland stated yes.

Dwayne Hogan stated such as for what and why.

Laura Cleland stated for their son.

Dwayne Hogan asked if it's for themselves or relatives.

Martin Cleland stated their son is a disabled military veteran and he comes and stays with them for approximately a month at a time and that would be some place for him to reside in after the mother-in-law passes.

Dwayne Hogan asked if there is any intention to make it a rental.

Martin Cleland stated no, no intention for a rental.

No remonstrators present.

Glen Minich made a motion to approve the Petition for Variance of Developmental Standards for Martin and Laura Cleland for converting a barn into living quarters and care for the elderly mother. This makes a 2nd dwelling. In future to keep as a guest house. This property is located at 9601 N. 600 W., Michigan City, IN., Springfield Twp. zoned R1B on 9.129 acres.

Dwayne Hogan seconded.

All Approved. Motion carries 5-0.

5. Petition for Variance of Developmental Standards for Ricky Lee Gillham for placement of a shipping container to be used for storage. The property is located at 1045

N. 600 E., Mill Creek, IN., Wills Twp., zoned A on 2 acres. Parcel 46-08-30-300-001.000-068.

Attorney Biege stated notice is adequate.

Rick Gillham stated his address is 210 E St., LaPorte, IN. The property is at 1045 N. 600 E., Mill Creek, IN. He needed storage right away because they are selling the house where he is living and there is nowhere to rent so he is trying to put that out together out there on that property.

Melissa Mullins Mischke asked if he intends to use the shipping container to store materials while he builds something out there.

Rick Gillham stated for everything pretty much, but he is putting a cottage out there. A little cabin.

Melissa Mullins Mischke asked if the storage container will eventually go away once the cottage is built.

Rick Gillham stated he plans on keeping it. It's movable. It's nothing stationary.

Melissa Mullins Mischke asked how big of a storage container is it.

Ricky Gillham stated twenty-foot (20'). Eight-foot by twenty-foot (8' x 20').

No remonstrators present.

Dwayne Hogan asked if he was living in the container?

Rick Gillham stated no, it's just for storage.

Dwayne Hogan asked how long it has been there.

Rick Gillham stated about three (3) weeks.

Glen Minich asked how long he has owned the property.

Rick Gillham stated about three (3) weeks. He just purchased it because they have been trying to find a place to rent and there is nowhere to rent. He found the property; he purchased it. They sold the house. Now he needs to find a way to get a cabin on it to live in it. That's why he needed that storage so he could store everything in it until they can get the cabin situated.

Melissa Mullins Mischke asked how soon he is going to build.

Rick Gillham stated the cabin is a Yoder fourteen-foot by forty-foot (14' x 40') building that is already on the property.

Ashley Kazmucha stated that is not big enough to live in.

Rick Gillham stated he was given a variance.

Melissa Mullins Mischke asked from whom.

Rick Gillham stated from where he got the permits; they gave him a hardship variance on the cabin.

Ashley Kazmucha stated that would be the BZA. He would have to file to do that.

Rick Gillham stated he has no idea. He knows he has to have a place to live and there is nowhere to go.

Melissa Mullins Mischke asked where he got his permit? In this building?

Rick Gillham stated yes, upstairs. It is for the little building. He told her he was living in it and she said it's not big enough, but he doesn't have a choice. There is nowhere for him to rent.

Melissa Mullins Mischke stated they might need to readvertise this as a modified petition because the size of it would need an additional variance and that is not advertised here for tonight's meeting.

Rick Gillham stated he has no idea.

Melissa Mullins Mischke stated it is a sticky legal one (1), but is she right that he needs to readvertise for next month.

Attorney Biege stated right, there was advertisement for the shipping container.

Glen Minich stated he thinks they should just act on the variance in front of them.

Melissa Mullins Mischke stated her concern is that she doesn't want him to have to do the fee again and come back.

Glen Minich stated he will have to.

Rick Gillham stated he will probably have to. He'll have to talk to the Building Department.

Melissa Mullins Mischke stated they will go with the petition in front of them.

Glen Minich stated they are not setting shipping containers permanently in the County.

Glen Minich made a motion to approve the Petition for Variance of Developmental Standards for Ricky Lee Gillham for placement of a shipping container to be used for storage for two (2) years

non-renewable. The property is located at 1045 N. 600 E., Mill Creek, IN., Wills Twp., zoned A on 2 acres.

Adam Koronka seconded.

All Approved. Motion carries 5-0.

6. Petition for Variance of Use for Nathan and Amy O'Brien for running a landscaping business and to construct a building to run the business in the building for now to keep stock on site. This property is located at 4234 N. 900 W., IN., Michigan City Twp., zoned R1B on 10 acres. Parcel 46-05-09-400-013.000-046.

Attorney Biege stated on notice the publication is adequate.

Nathan O'Brien stated his address is 10397 W. Alcin Dr., Otis, IN. He purchased this property last year. He has been in the landscaping industry for twenty-five (25) years and he has been afforded the ability to start his own business. He would like to use this property to start his own nursery for the long term, but also to hold stock and material for his own personal use. It will not be a retail facility by any means. Eventually, it depends how well the business goes over the next year or so, but he does plan to construct a pole barn for material and eventually in the long time he and his wife may build a house on the property as well, but that's not in any time in the foreseeable future. Unless he gets really busy.

Dwayne Hogan stated he is basically looking to build a pole barn; what size?

Nathan O'Brien stated maybe twenty-feet by forty feet (20' x 40').

Dwayne Hogan stated it would be in the location where he had it marked off with the stakes.

Nathan O'Brien stated he did not mark out anything on the property other than the driveway.

Dwayne Hogan stated he basically wants to put a business there with a pole barn and no residence right now.

Nathan O'Brien stated correct.

Melissa Mullins Mischke stated since there will not be customers coming on site, will there still be deliveries and things of that nature.

Nathan O'Brien stated yes, wholesale deliveries.

Melissa Mullins Mischke asked what kind of hours of operation would he have.

Nathan O'Brien stated he usually works ten (10) hour days, six (6) days a week.

Melissa Mullins Mischke stated starting at six (6) a.m.?

Nathan O'Brien stated sure.

Attorney Biege stated if there's no customers coming to the business. . .

Melissa Mullins Mischke stated her intent was to cover the basis so if there are deliveries and things that traffic will come in and out. If that's okay with the Board.

Dwayne Hogan stated it would have to be.

Adam Koronka stated when he says wholesale deliveries, what is he talking about? Are they talking a fifty-three-foot (53') trailer, a box truck, what?

Nathan O'Brien stated both. Eventually he would like to be buying his own semi loads of trees and plants so a semi load of fifty-three-foot (53') is correct.

Dwayne Hogan asked how soon he would like to start construction on this.

Nathan O'Brien stated he has the driveway permit so as soon as he can. Well, he will not be receiving any plant material until he can get a well dug. He will need the barn before he gets the well so it is still a way off. Right now, it's mainly to keep his trucks and trailers out of his own driveway at his home.

Melissa Mullins Mischke stated she understands that.

No remonstrators present.

Glen Minich stated he's changing the story now.

Dwayne Hogan asked what he has to store out there.

Nathan O'Brien stated he has two (2) truck, two (2) trailer, a tractor machine, skid steer, and random stone.

Melissa Mullins Mischke stated his next question is going to be if twenty-foot by forty-foot (20' x 40') is large enough.

Nathan O'Brien stated he wouldn't be storing any of that inside the barn. The only thing that would be in the barn would be mainly just tools, burlap, and rope.

Glen Minich stated he is sorry to have said it the way he did that the story changed, but what he said brings to mind that there is a home next to it and they have to respect that so what are they going to do to make this look as pristine as it can to the neighboring home.

Nathan O'Brien stated his business has grown because he makes everyone else's property pristine. If his landscape business looks like riff raff coming in and out of there, he will not be getting much business.

Glen Minich stated that is not what is he saying. He is saying the storage of the trailers and equipment.

Nathan O'Brien stated he would hope that it would be as neat and put together as the places that he is working at. Plus, the logistics of a landscaping business; he can't have stuff laying around everywhere because it still gets in the way.

Glen Minich stated he almost feels like they need to look at this one (1) again where he could come in and show them what he wants to do rather than saying he will do it because all they're being shown is an empty lot and a home next to it and a promise to make it look nice, but if they have a layout where the trucks and trailers will be and the driveway and barn here, they have a better idea. And the neighbor has a better idea of what to expect.

Nathan O'Brien stated the only neighbor is the filter factory that is next to him. There is another neighbor adjacent diagonally, but they don't have a line of sight.

Glen Minich stated they usually like to see a layout. They like to see something.

Dwayne Hogan stated generally.

Melissa Mullins Mischke stated she has to trust this gentleman that it will look as good as the properties he landscapes. She agrees his business is all about perception.

Nathan O'Brien stated thank you.

Dwayne Hogan asked if there is a name for the business.

Nathan O'Brien stated O'Brien Landscapes.

Melissa Mullins Mischke asked if he will put a sign up.

Nathan O'Brien stated yes.

Melissa Mullins Mischke asked how large.

Nathan O'Brien stated probably not bigger than ten feet (10').

Melissa Mullins Mischke stated ten feet (10') wide.

Nathan O'Brien stated yes.

Melissa Mullins Mischke asked how tall.

Nathan O'Brien stated maybe three to four feet (3' – 4') just big enough for the name to be seen.

Melissa Mullins Mischke asked if it will have lights on it.

Nathan O'Brien stated no. He is looking more at like a piece of etched wood or something like that not a street sign or something saying free trees.

Dwayne Hogan made a motion to approve the Petition for Variance of Use for Nathan and Amy O'Brien for running a landscaping business and to construct a building to run the business in the building for now to keep stock on site. The sign is not to exceed 4' x 10' with operating hours of 6am – 8pm Monday – Saturday. This property is located at 4234 N. 900 W., IN., Michigan City Twp., zoned R1B on 10 acres.

Adam Koronka seconded.

All Approved. Motion carries 5-0.

7. Petition for Variance of Developmental Standards for David L & Teresa M Legros for construction of an accessory structure pole barn to the side and in front of the home with a front setback of 7'. The property is located at 1371 S. Marquette St., LaPorte, IN., Scipio Twp, zoned R1B. Parcel 46-10-10-277-001.000-060.

Attorney Biege stated notice is adequate.

David Legros stated his address is 1371 S. Marquette St., LaPorte, IN.

Melissa Mullins stated thank you for his nice drawings. Is it large enough?

Dwayne Hogan stated yes, he walked it over and it looks good.

Melissa Mullins Mischke stated the structure is for storage only.

David Legros stated storage only, correct.

Dwayne Hogan asked when he plans to start construction.

David Legros stated he would like to start tomorrow, but it's just getting some people together than can do it or to hire a contractor that isn't three (3), four (4), five (5), six (6) months out so as soon as he can find somebody to start. Or if some of the guys he works with find time they will get started as soon as they can.

Dwayne Hogan stated it looks very nice.

No remonstrators present.

Dwayne Hogan made a motion to approve the Petition for Variance of Developmental Standards for David L & Teresa M Legros for construction of an accessory structure pole barn to the side and in front of the home with a front setback of 7'. The property is located at 1371 S. Marquette St., LaPorte, IN., Scipio Twp, zoned R1B.

Adam Koronka seconded.

All Approved. Motion carries 5-0.

8. Petition for Variance of Developmental Standards for Sherri C Schoof to split a parcel in two; Primary parcel will retain 200' of frontage and new parcel will have 90' of frontage instead of the 200' minimum required. The property is located at 1656 W. Springville Rd., LaPorte, IN., Springfield Twp, zoned R1B on 10.556 acres. Parcel 46-06-02-376-002.000-062.

Attorney Biege stated notice is adequate.

Sherri Shoof stated her address is 1656 W. Springville Rd., LaPorte, IN.

Melissa Mullins Mischke stated this is a lot of acreage. So, they are going to split off the house and sell off the rest?

Sherri Schoof stated yes. She doesn't need all that property for little old her.

Melissa Mullins Mischke asked if there was a mobile home out there at one (1) point. Is that true?

Sherri Schoof stated there is still a mobile home there. She has talked to perspective buyers and they said they would be responsible for removing that unless she hires the next door who are demolishing trailers in Shady Grove and she might hire them to take care of that problem.

Melissa Mullins Mischke stated either way though it will come out though, correct?

Sherri Schoof stated yes, most definitely.

Melissa Mullins Mischke asked how many acres are going to stay with the house.

Sherri Schoof stated she is going to get rid of eight (8) and there is ten-point-five-five (10.55) so she is only keeping two (2) or three (3).

Dwayne Hogan stated the new parcel is only going to have ninety feet (90') of road frontage.

Sherri Schoof stated yes.

Dwayne Hogan asked because why.

Sherri Schoof stated she had to keep two hundred feet (200') for herself as it states.

Melissa Mullins Mischke stated she likes the way she thinks.

Sherri Schoff stated isn't that how it has to be?

Melissa Mullins Mischke stated at the same time, she read this and said can't they just make it a little more even.

Sherri Schoof stated she thought it was a rule she had to keep two hundred feet (200').

Melissa Mullins Mischke stated it is, but that's one (1) of the things they do. They may or may not grant the ninety feet (90') so. . .

Sherri Schoof stated alright. She just doesn't need all that property for herself. She loves to mow, but that's a bit much.

Melissa Mullins Mischke states she understands that too.

No remonstrators present.

Dwayne Hogan asked how dead set she is on the ninety feet (90').

Adam Koronka stated narrowing out the property two and a half (2½) acres that she is leaving and make it more even for the frontage.

Dwayne Hogan stated that is what he is thinking.

Melissa Mullins Mischke asked if he means one hundred feet (100') for each one (1).

Adam Koronka stated she has two hundred and ninety feet (290') to work with.

Glen Minich stated they would need to know where the septic is.

Ashley Kazmucha asked if she knew where her septic field is.

Sherri Schoof stated no, but down by the trailer is a new septic that goes out towards the woods though.

Melissa Mullins Mischke asked if she knows where they septic for the house is.

Sherri Schoof stated no, not right off hand.

Dwayne Hogan stated they don't want to split her septic.

Sherri Schoof stated she kind of had a plan that if they see the front of the property there is a telephone pole and it follows back and she wants to try to keep the line on the telephone poles and then after her property of the home, the back of it, they can have it all. The wooded area and all that can go.

Melissa Mullins Mischke asked if she has had a surveyor look at it at all.

Sherri Schoof stated she has called a few surveyors.

Melissa Mullins Mischke stated they would look at her septic to make sure everything is okay.

Sherri Schoof stated right.

Michael Polan asked if they do a range.

Melissa Mullins Mischke stated like no less than ninety feet (90'), but not to exceed. She is good with that.

Dwayne Hogan asked how long she has had the property.

Sherri Schoof stated February of last year.

Melissa Mullins Mischke stated she is inclined to say she needs to get a surveyor out there to take a look at it.

Sherri Schoof stated she already contacted a couple gentlemen and she will get is surveyed and probably appraised. She doesn't have a clue what the acreage is going for in that area that it is up and coming.

Melissa Mullins Mischke asked how the Board feels about postponing the vote until she has a survey and come back in so they can make a decision.

Dwayne Hogan stated it might be beneficial.

Attorney Biege stated she may want to get a survey and have a realtor look at it to decide how much frontage she should take because she will be able to maximize her value and that's better than guessing tonight.

Sherri Schoof stated right because she has no clue.

Attorney Biege stated once they make their decision, she is stuck with it. She would be better off getting a surveyor and then a realtor to look at to help her decide where she wants that line to be. That will make the Board's decision easy.

Sherri Schoof stated great.

Dwayne Hogan asked how long it would take to get a survey and get it all done.

Sherri Schoof stated she doesn't know. One (1) surveyors' price was way up here and the other was way down here.

Dwayne Hogan asked if sixty (60) days would be enough time.

Sherri Schoof stated sixty (60) days would be fine.

Dwayne Hogan made a motion to postpone for sixty (60) days the Petition for Variance of Developmental Standards for Sherri C Schoof to split a parcel in two; Primary parcel will retain 200' of frontage and new parcel will have 90' of frontage instead of the 200' minimum required. The property is located at 1656 W. Springville Rd., LaPorte, IN., Springfield Twp, zoned R1B on 10.556 acres.

Adam Koronka seconded.

All Approved. Motion carries 5-0.

9. Petition for Variance of Developmental Standards for Rebecca Henning & Michael Henning Jr JTWROS for continued placement of a mobile home to care for the elderly mother. Last variance granted 5/18/2010 for three (3) years. The property is located at 2866 N. 850 E., Rolling Prairie, IN., Wills Twp and zoned A on 1 acre. Parcel 46-08-21-100-005.000-068.

Attorney Biege stated notice is adequate.

Barbara Henning stated her address is 2868 N. 850 E., Rolling Prairie, IN.

Melissa Mullins Mischke stated the last variance was up in 2013. Is the elderly parent still living in the mobile home?

Barbara Henning stated she lives in the mobile home. Her father-in-law lived in the home with her. The last time they got a variance they were approved for a loan to get a house and then her father-in-law got really sick so they stayed there to help take care of her. They help with the bills and take care of the property. They do maintain the property very well. When Ashley came out and took pictures, the front of the mobile home did not look like it should be looking, but she has since taken care of that. She just has been working a lot of hours. She works at Notre Dame and they have two (2) commencements and Garth Brooks and everything else going on. She works in events so she's right in the middle of it. She took this week off and she got the front of it all cleaned up and looking like it normally does. She did take pictures as well.

Melissa Mullins Mischke asked what prevented them from returning for the variance from 2016 until now.

Barbara Henning stated she just forgot. She was working and didn't think of it.

Melissa Mullins Mischke stated she should understand that should they approve the variance it is her responsibility to come back to them within the allotted time period.

Barbara Henning stated yes, absolutely. They are staying there as long as her mother-in-law is alive and then they will take over the property after that and the mobile home will be removed. They will not keep it on the property.

Melissa Mullins Mischke asked what year the mobile home is.

Barbara Henning stated it was purchased brand new when it was put on the property. She thinks it may be twenty-five (25) years old, but they do maintain the skirting on it. They repair any holes if there are any. She keeps the shutters painted and bright colored.

Melissa Mullins Mischke stated it is nice. Who lives in the house currently?

Barbara Henning stated her mother-in-law.

Melissa Mullins Mischke stated the mother-in-law will stay in the house while she and her husband will live in the mobile home.

Barbara Henning stated they have lived in the mobile home.

Melissa Mullins Mischke stated until she is unable to live in the house then the mobile home will go away.

Barbara Henning stated yes and it will be gone. Her mother-in-law and father-in-law built that house so they would like to keep the house in the family.

Melissa Mullins Mischke stated the mobile home does look like it is well maintained.

Barbara Henning stated it is.

No remonstrators present.

Glen Minich made a motion to approve the Petition for Variance of Developmental Standards for Rebecca Henning & Michael Henning Jr JTWROS for continued placement of a mobile home to care for the elderly mother three (3) years renewable. Mobile home will be removed when no longer needed. The property is located at 2866 N. 850 E., Rolling Prairie, IN., Wills Twp and zoned A on 1 acre.

Adam Koronka seconded.

All Approved. Motion carries 5-0.

10. Petition for Variance of Developmental Standards for Darcy and Gregory

Brumley for construction of new home with a front setback of 5' instead of the minimum 25' and a side setback of 6' instead of the minimum 10'. This property is located at 250 Bluffside Rd., LaPorte, IN., Center Twp. zoned R1B. Parcel 46-06-22-328-008.000-042.

Attorney Biege stated notice is adequate.

Gregory Brumley stated his address is 250 Bluffside Rd, LaPorte, IN.

Melissa Mullins Mischke stated he is going to build a brand-new house and tear this one (1) all the way down.

Gregory Brumley stated the house that was there was torn down already so it's vacant.

Melissa Mullins Mischke stated brand-new everything.

No remonstrators present.

Melissa Mullins Mischke asked if they have to go all the way to the five feet (5')? Did the parcel get smaller since they bought it; no, it's the same size. It does appear to be an improvement over what was there though.

Gregory Brumley stated the previous house was out of compliance significantly. This one (1) is actually more in compliance.

Melissa Mullins Mischke stated the previous house was really snug on one (1) side. At least he is centering back up and it is an improvement.

Dwayne Hogan asked if he picked up a builder yet.

Jim Pressel stated he's there to remonstrate.

Melissa Mullins Mischke stated he missed his chance; she already called for that.

Adam Koronka made a motion to approve the Petition for Variance of Developmental Standards for Darcy and Gregory Brumley for construction new home with a front setback of 5' instead of the minimum 25' and a side setback of 6' instead of the minimum 10'. This property is located at 250 Bluffside Rd., LaPorte, IN., Center Twp. zoned R1B.

Dwayne Hogan seconded.

Approved. Motion carries 3-2.

11. Petition for Variance of Developmental Standards for Rachel Farias for having a privacy fence with front being 6' instead of the maximum 3'6". This property is located

at 7179 W. Johnson Rd., Michigan City, IN., Coolspring Twp. zoned R1B on 0.58 acres.
Parcel 46-05-11-476-008.000-046.

Attorney Biege stated notice is adequate.

Rachel Farias stated her address is 7179 W. Johnson Rd., Michigan City, IN.

Melissa Mullins Mischke asked if this is a new fence?

Dwayne Hogan stated the fence is already up.

Rachel Farias stated yes.

Dwayne Hogan stated he got some phone calls about it. Is there any particular reason why she fenced across the whole front of it on Johnson Road there?

Rachel Farias stated yes. As their house does not have an entry or exit straight to the back yard, they have five (5) dogs, one (1) of which was hit last month and had to have a leg amputated, so for the safety of her dogs and traffic she needed a fence tall enough to keep her dogs in the yard. A three and a half foot (3½') fence which is what goes down the other side of the chain line, can be climbed by her small dog and her large dogs can jump it. It's simply for safety for her pets and safety for the drivers to keep the dogs in her yard.

Melissa Mullins Mischke asked how she accesses the property through the front.

Rachel Farias stated off the driveway there is an access door that goes into her yard and allows them access to the front yard and in and out of the house. The dogs will come out the front and they can go around to the back which is completely fenced in and they are secure. There is no way for them to get out and to the road.

Dwayne Hogan stated he has been on the Board a long time and they have told all other homeowners that they can't put it across the front of Johnson Road like that. It is very obstructive as you drive by. He drove into her driveway three (3) different ways on different angles just to make sure that he could get in and out of it and it's tight and it is dangerous.

Rachel Farias stated she has no issue getting in and out of her driveway. She has taken a video of backing out. She wasn't aware of not being able to have the fence. If they did the chain link or even a lattice fencing at the top where it is still visible or allowed for any type of viewing, her dogs would not be secure in the yard.

Glen Minich asked what she thought about moving the fence back away from the road farther. It will shrink her yard.

Rachel Farias stated it will shrink her yard quite a bit and with having five (5) dogs that are all German Shepherds, it doesn't allow enough room.

Dwayne Hogan stated they have never allowed it before and he is not in favor of this one (1).

Melissa Mullins Mischke stated she understands the need, but she is not in favor of keeping it that close to the road either.

Rachel Farias asked if they're not allowed to have a fence in the front at all on Johnson Road?

Dwayne Hogan stated it is restricted by height. It's three feet six inches (3'6").

Glen Minich stated that's the whole County not just Johnson Road.

Michael Polan stated three and a half feet (3½') front and six and a half feet (6½') sides and rear.

Rachel Farias stated if you go down Johnson Road on the way to LaPorte, there is another fence on the right-hand side of the road and it measures the same. It is a six-foot (6') fence, but it tiers itself down, but each tier is still six-foot (6') and it's in front of that property.

Glen Minich stated that close to the road.

Rachel Farias stated yes.

Dwayne Hogan stated he is not familiar with that one (1).

Melissa Mullins Mischke stated she is not either.

Rachel Farias stated it is on there.

Melissa Mullins Mischke stated hers is the one (1) in front of them so they are going to deal with hers.

Rachel Farias stated she understands.

Dwayne Hogan stated he's trying to think of a plausible answer for it. The front has to come down. It can't stay like that.

Glen Minich stated it has to be pushed back.

Dwayne Hogan stated back or down.

Glen Minich stated the question is how far.

Dwayne Hogan stated when they say the front of the house, it's the whole entire front of the house that's three and a half feet (3½'), right? If she pushed it back one-foot (1') or twelve feet (12') it would still be a three and a half foot (3½').

Michael Polan stated right.

Adam Koronka stated it would basically have to go all the way back to the front plane of the house, right?

Melissa Mullins Mischke stated right.

Adam Koronka stated as he looks at it, it almost looks like it is outside of the right-of-way too. It's on the roadside of the right-of-way.

Dwayne Hogan stated it is. He drove in it three (3) different ways and it took awhile to get in and out of that.

Glen Minich asked how far back does he think it should be moved.

Dwayne Hogan stated it doesn't matter how far back because it has to be three and a half foot (3½') no matter how far back they push it.

Glen Minich asked how far back would they have to push it to make it safe. Yes, she will lose some front yard, but leave it six-foot (6') and push it back towards the home. Ten feet (10')?

Dwayne Hogan stated he doesn't know. It would still be a variance though.

Melissa Mullins Mischke stated that's what they're here for.

Dwayne Hogan stated he knows, but he's not sure that will be enough. How much space does she have in her front yard now from the fence line to the front of her house?

Rachel Farias stated that would be thirty-two feet (32').

Dwayne Hogan stated taken back even half that would still be in the front. No one (1) else along there has asked for that and got it. Nick Pawlik has asked for it. People passed the fire station have asked for it. They have all said no every time all the way down.

Glen Minich asked Michael Polan what prompted them to be here tonight.

Michael Polan stated this was complaint induced so Ashley and he stopped there personally and took pictures. They sent the letter out that prompted the variance. If the fence was able to be moved back to the threshold of the house or the three-point-five feet (3.5') then she wouldn't need to get a variance.

Glen Minich stated right.

Dwayne Hogan stated she would just need a building permit.

County Jurisdictions do not require fencing permits.

Melissa Mullins Mischke asked if her dogs can climb the fence if it were chain link at this height.

Rachel Farias stated potentially two (2) of her females could. If they look at the chain link fence that runs between her driveway and the neighbor's house about three and a half to four feet (3½' – 4') can be climbed by her dogs. She is afraid that if there is a chain link in the front, they are apt to see somebody walking by or another animal. She doesn't want to take that chance of them escaping the yard and have another issue where she has another dog that she either has to bury or lose another limb.

Dwayne Hogan asked if the back yard is fenced in too.

Rachel Farias stated yes, but she only has access from the front door. If she uses the side door, she wouldn't be able to park in her garage and she would lose a whole parking space. If she took the fence from the front and moved part of it to that side, she would lose a whole parking space and the use of her garage because there is no back door to her house. They can come out and look if they want. There is no in and out directly to her back yard. If there was, they would not be here and there would not be a fence in her front yard.

Melissa Mullins Mischke stated this is definitely a conundrum.

Dwayne Hogan stated he is not in favor of the front.

Melissa Mullins Mischke state she is not either.

Rachel Farias asked if she could make a suggestion and see if they could agree on something like that. What if instead of the six-foot (6') solid she did a four to four and a half foot (4' – 4½') with a lattice on top so it's not solid? Is that something that would be okay? Something where they wouldn't be able to get their paws in to jump over.

Dwayne Hogan stated a four-foot chain link then something solid.

Melissa Mullins Mischke stated she means like three-point-six feet (3.6') solid and lattice or something open on the top.

Adam Koronka stated even though lattice doesn't provide a whole lot of visibility through it.

Dwayne Hogan stated it'd be about the same thing they have now.

Michael Polan stated the other option would be to leave it at the height it's at, but compromise on a distance setback for obstruction on getting in and out and traffic.

Melissa Mullins Mischke stated that was one (1) of Glen's ideas, maybe ten feet (10') setback.

Glen Minich stated he is guessing the fence is about ten-foot (10') sections. They should be eight feet (8').

Rachel Farias stated it is ten feet (10') post to post.

Glen Minich stated if they pushed back to the post, it would be about twelve feet (12') and they would have better sight lines and she could back around.

Melissa Mullins Mischke stated she is more in favor of that. She doesn't like it less, but it's better.

Dwayne Hogan stated it's whatever they guess they can live with tonight.

Melissa Mullins Mischke stated well obviously moving it back to the house isn't going to work and then they wouldn't be here.

Glen Minich stated front patios are not uncommon.

Melissa Mullins Mischke stated she agrees.

No remonstrators present.

Melissa Mullins Mischke asked how she would feel about moving the fence back.

Rachel Farias stated as long as she can keep the height, she would be okay with that.

Glen Minich stated they are proposing moving it back to the second post in about twelve feet (12') in. That would leave a better line of site for everybody. They could remove that section and push it back.

Melissa Mullins Mischke stated it would be a little bit safer and still have room.

Michael Polan stated just so she knows, that is still against the code, but that is why she is here seeking a variance and that is the compromise that they are discussing.

Rachel Farias stated she understands that.

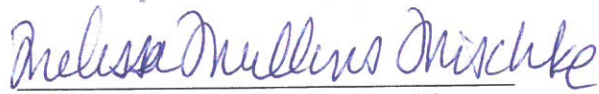
Glen Minich made a motion to table the Petition for Variance of Developmental Standards for Rachel Farias for having a privacy fence with front being 6' instead of the maximum 3'6", but it must be moved twelve feet (12') towards the home (post indicated visually). This property is located at 7179 W. Johnson Rd., Michigan City, IN., Coolspring Twp. zoned R1B on 0.58 acres.

April Daly seconded.

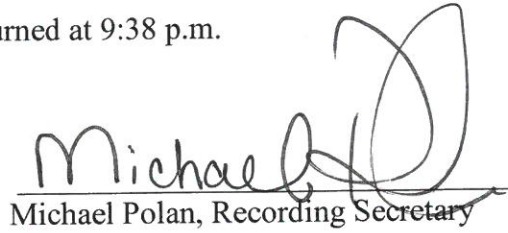
Approved. Motion carries 4-1.

Melissa Mullins Mischke asked for any other business.

There being no further business, meeting adjourned at 9:38 p.m.



Melissa Mullins Mischke, President



Michael Polan, Recording Secretary